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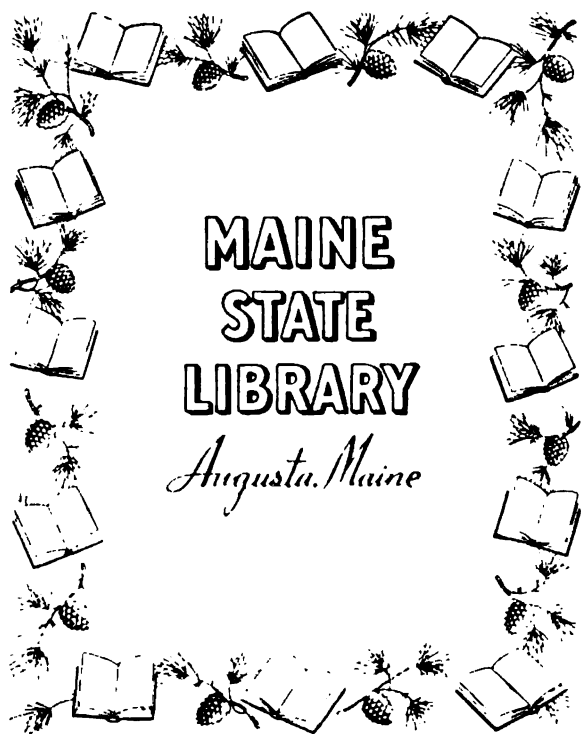
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With the respects of Mr. Harrison

✓LEGISLATION ON INSANITY.

A COLLECTION OF ALL THE

LUNACY LAWS

OF THE

STATES AND TERRITORIES OF THE UNITED STATES

TO THE YEAR 1883, INCLUSIVE.

ALSO

THE LAWS OF ENGLAND ON INSANITY,

LEGISLATION IN CANADA ON PRIVATE HOUSES,

AND IMPORTANT PORTIONS OF THE

LUNACY LAWS OF GERMANY, FRANCE, ETC.

GEORGE L. HARRISON, LL.D.,

LATE PRESIDENT OF THE BOARD OF PUBLIC CHARITIES OF PENNSYLVANIA.

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NOTE.—Brackets in the text denote: 1. A conjectural emendation. 2. An amendment to the original section. Punctuation is in every case that of the work cited. Spelling and use of capital letters have been made uniform. The tables of contents have been made without reference to the marginal notes, which are those of the various statutes. In the tables the words "asylum," "insane" and "indigent insane" have been uniformly used. The word "ibid" has been omitted in the citations when the paragraphs have been taken from a revised statute or code whose sections are numbered consecutively. Where a chapter is cited without a date it refers to a revised statute or code already cited. When a date appears it is cited from the pamphlet laws. The laws of England are exceptions to this.

LEGISLATION ON INSANITY.

PREFACE.

INSANITY is the saddest and most terrible of all diseases,—the most pitiable and helpless of all the states and forms of human helplessness. And yet it is a condition to which all men are liable, and into which any man may at any time fall with or without premonition. Not only does it provoke the compassion of the philanthropist, but it appeals to and it tasks the highest medical skill; it demands and exhausts all the resources of legislative wisdom. In its relation to crime it presents one of the darkest and most mysterious problems of medical and criminal jurisprudence. In connexion with the poor and friendless, it imperatively calls upon the State for care and protection. But so complex and intricate is the subject in its various relations and aspects, it is no wonder that in regard to it the legislation of many States is very crude and defective, and of all States, as yet, more or less tentative and imperfect.

During my term of service upon the Board of Public Charities of Pennsylvania, mainly as its President, I had ample opportunities of observing the condition of the inmates of Hospitals and Asylums for the Insane, in this and other States, as well as that of all the other defective classes of the commonwealth, in their respective Institutions; and since my withdrawal from that office, I have had favorable opportunities in Great Britain and on the Continent of Europe, to indulge the interest which I felt in the subject, and to study it further by a comparison of the several methods of administering these various charities. Some of these questions were discussed in a volume which I printed (privately) in 1877,

under the title of "Chapters on Social Science in relation to State Charities," and the views which were then set forth are still entertained by me. The intimations which were given of the peculiar and unhappy relation of the Insane to the community; have assumed the character of distinctness and certainty upon further observation and reflection.

This relation is that of a ward, who is a stranger to his guardian, of a guardian who has no acquaintance with his ward. The system of "care and treatment" which rules in all Hospitals for the Insane, places in complete isolation from social intercourse with the sane, at the will of the Hospital officials, all classes of the Insane within their walls. The medical superintendent, under the laws which prevail generally in this country, and which, until recently, have been in force in this State, preserves a despotic power over the liberty, at least, of all who have been "committed" in proper form to his Hospital,—even so far as to justify the detention there, of a *sane* man throughout all his days, without responsibility for the enormous wrong. I desire simply to state facts. I am not questioning the honor, the integrity, or the humanity of any one. But the public has been sedulously taught that the mentally sick, however slight the malady may be, are subjects solely for the disposal of the members of the medical profession; it matters not how youthful, how inexperienced, or how occupied in their professional work. If the diplomas be but one hour old, if their branch of practice be dentistry or chiropody, two, at most, of such persons, if respectable in the opinion of a Justice of the Peace, have had the power to commit any member of the community to a hospital for the insane, there to be detained indefinitely and with impunity, at the will of the medical superintendent, unless liberated through the intervention of the court. This has been the law in Pennsylvania until recently.

The chief physician of one of the best institutions for the insane in this country says: "I have no knowledge of the wrongful detention of a sane person in this or any other hospital, but I can very well understand that this injustice may occur. Every superintendent of a hospital desires the wards to be full, and where the inmates are 'pay patients', there exists a temptation to detain them." These influences may

operate so far as to lessen the strictness of an examination of the patient upon admission.

If the present status of this sad but interesting question was appreciated by the public, as well as the true position it should occupy, no citizen, sane or insane, would be exposed to the risks or the actual wrongs which confront them always, and from which they cannot always escape.

When the error is dispelled, that public concern and personal interest in the well-being of the insane are not legitimate factors to their improvement or recovery, and when these take the practical shape of observation and activity in their service, there will come to pass, however gradually, a recognition of the needs of these helpless ones; they will be allowed a more personal intercourse with the just, the judicious, and the philanthropic, which will keep open to the public, who are their real guardians and judges, a knowledge of their condition, and of the measure of justice or injustice they receive. It will then happen that the chief physician shall not be the housekeeper and the financier for 500 or 1000 boarders; that his assistants will not necessarily assume his authority and fulfill his duty in the gravest cases; that the nurses and attendants will be selected for their actual qualifications, and special fitness for their delicate work, and not for their cheapness. A system will then ensue, which will, by its own merit and adaptation to the circumstances of the case, duly protect these sufferers, and which will give time and opportunity for the consideration, by those who have them in charge, of the peculiar claim they have upon their sympathy and their sense of justice.

The Hon. F. B. Sanborn of Massachusetts, the inspector of charities of that State, distinguished alike by his general intelligence and his wisdom and good judgment on all questions relating to State charities, writes in regard to the matter of intercourse of the insane with the community, "It is a just provision, that inmates of asylums for the insane should have the opportunity of communicating with parties outside, who are or should be satisfactory to them. This tends to reconcile them to their situation; and it may happen that it is even more essential than this to them,"—for example, in cases of sanity or doubtful cases—"but such intercourse should be reasonably regulated."

I may, at this point, refer, with propriety, to a few instances of distressing injustice in this State, which could not have occurred under a more enlightened system of legislation, and a more just and generous appreciation of the question by hospital managers or superintendents.

1. On the occasion of an official visit to a hospital for the insane, I noticed a lad, helpless from the loss of both legs, suffering great mental agony, and tossing about on a bed, with the insane around and about him. This display of mental pain being unusual, I was impulsively drawn to the sufferer, laid my hand upon him in a soothing manner, and spoke to him a few kind words. He turned his averted face towards me, and almost immediately the expression of anguish departed. I had him removed to the infirmary, commended him to the special attention of doctor and nurse, and when I made a visit to him a few days afterwards, I found this case of "insanity" to be what might reasonably be regarded as no more than an instance of severe distress, induced by the neglect and brutality of an employer, in whose service his limbs were frozen to suppuration, and by whom he was then turned into the road. He was picked up by a passing wagoner, and eventually left upon a sidewalk of the city, unable to rise with his festered limbs; he was carried to a hospital, and his legs amputated. All traces of his family were gone, (they were German emigrants); and at length, overwhelmed with agony and despair, he found himself a tenant of a "madhouse." The friendly touch of a humanity, which all possess, taught him that he was not entirely without sympathy, and a revived hope soon restored him to confidence and peace. The replacing of his human limbs with artificial ones, gained for him a situation where he could earn a living for himself, and now, after ten years, for a partner in life.

2. At a meeting of the directors of a large charity, it was announced that the physicians of the institution were prepared to sign a certificate of insanity, after several weeks' attendance, for the admission of a beneficiary to a hospital for the insane. This would have been allowed, as a matter of course, but that a special committee was asked for and appointed. The case was indeed a pitiable one, and likely to mislead even a professional man of ordinary experience. Suggestions were made by one of the committee, which were accepted by the doctors;

the plan was carefully pursued, abnormal symptoms gradually disappeared, and after two or three months the young man regained his composure, and returned to his home, and has since continued to live with his family and work for a living. It was simply an instance of overtaking the bodily strength by long and unintermitted labor.

3. A gentleman of intelligence, who had many friends, was separated from his wife and resided at a distance from his family. He undertook to revisit former scenes, and was observed by his wife's relations. One of these, a physician, accosted him, invited him to his office, and an interview of a few minutes took place. Shortly afterwards, as he resumed his walk along the country road, a carriage drew up, and two sturdy men alighted, seized him, forced him into the carriage, and conveyed him to a hospital for the insane, with a certificate of commitment, signed by two physicians, whose respectability was vouched for by a magistrate, as the law required. This gentleman was not "examined" by the hospital physician. He was immured with the insane; and detained in entire conformity with the law, as it then existed. His friends were astonished at his sudden disappearance, but his home was a hotel, and he had no intimate companions there. After about a month's detention, he found an opportunity of stealthily communicating his position to his friends. They hurried to the hospital, and he was surrendered at once; the doctor taking occasion, *then*, to examine the case.

4. An instance of the commitment of a sane person to a hospital for the insane, occurred so recently in this neighborhood, that it will be fresh in the minds of all who care for these things.

A man in the respectable walks of life, but who was not an agreeable member of his family, received unexpectedly a formal visit from the family physician. Shortly after this interview, he was unceremoniously carried off to an asylum for the insane, on a certificate signed by his doctor and a medical friend. He happily had a son, however, who missed his father, sought him out, and delivered him from durance. The two physicians who committed him to this undeserved incarceration, were called to account for their act,—an act worse than a felony; but the judge found no legal cause for punishment, and discharged the doctors.

5. A person of humble origin, but of considerable means, and a partner in business with a brother, found himself, without premonition, in the hands of a "committee" appointed by the court to take charge of his person and his property. He was hurried to a distant city and placed in a "retreat" for the insane. He had friends, but none knew where he was; and many months dragged on before any ray of hope illumined his prospects. At length he induced his guardian to remove him to a hospital near his old home, as it was supposed his case had ceased to receive attention. But he found opportunity to make known his whereabouts, and soon a writ of habeas corpus brought him before the court.

The court appointed a master on his case. Many friends, and several physicians and lawyers, saw him before the examination of witnesses, of whom a score or more testified to his sanity at the time of his immurement and at the present time. The medical superintendent's testimony was trivial to absurdity, the two main points being that he walked constantly through the corridors and talked continually of himself. The master reported to the court that he had never heard a clearer statement of a case than the plaintiff made: that he was remarkable for his sound intelligence, etc.,—and the court discharged him. It took nine months to go through this ordeal and obtain his invaded liberty—most unrighteously invaded.

These cases are within the personal knowledge of the writer, and others might be cited of equal or even greater injustice.

Instances of neglect, even of barbarity which led to death, are known to all, familiar with the treatment of the insane, who are sometimes furnished with unfeeling attendants, hired at cheap rates, which only the most unsuitable would accept. I have before me a score of cases occurring within a few years, taken by my direction, from the dockets of our own courts and those of New York, which furnish examples of such sad experiences as I have mentioned. They are cases which have been carefully investigated by court and jury, sometimes consisting of as many as fifteen selected men; the institutions being defended by the ablest counsel.

There is no sensational motive in this record of the facts which have occurred in the institutions for this class. They

may not have occurred in all, but a liability to them exists everywhere from the system generally in force; which, by its exclusiveness, separates the public from all interposition in behalf of these wards of the state, except by confronting difficulties, delays and discouragements which few are willing to encounter. And thus, the hardships which menace all who are disposed to befriend the injured, the entire ignoring of all testimony from the patients themselves, the majority of whom are quite reliable in the statement of a matter of fact, the inexorable demand of the hospital officials for the sole consideration of all questions relating to the condition of their helpless patients, which has been most unwisely conceded by communities, too willing to be relieved of expense and troublesome responsibility; these are the sources and occasions of the peculiar and manifold misfortunes of the insane—misfortunes which are not suffered by any other class of the dependents of the State, and which would not be suffered by this most interesting and afflicted class, if the barriers, which I have suggested, were removed.

Perhaps the sentiment of the public, which I have mentioned, has prevented others from making so distinct a relation of the unhappy condition of the insane, as I have endeavored to indicate: the public mind not being well prepared to believe it. Perhaps the public are misled by partial knowledge, or knowledge only of some select retreat for well-to-do boarders. There have been, however, of late years, in this and other States, some revelations of the wrongs and the exposure to wrongs which they suffer. These have been developed in the efforts to effect an amelioration by judicious, conservative legal enactments, which should give full consideration to the officials of the institutions, and, at the same time, adequately protect the rights, which justice and humanity demand for their inmates. These patients have been entrusted to those officials for that care and treatment which would best relieve them of suffering, and so, best lead to the improvement or restoration of their health. The hospital is established for the patients and not for the officials, professional or lay.

The good influence of such legislation has been manifest in several States. The officers of the hospitals at first uniformly opposed it. Yet it has happened, that, not only have their patients been greatly relieved, and improper admissions hin-

dered, but the good results have given satisfaction to these officials themselves. They feel protected against an unjust public reproach and indignation, while the protective legislation exists, and is carefully administered by the authority to which such duty has been confided.

The present publication is of a peculiar character. It is intended to have the influence of securing legislation which shall express the public will in reference to the consideration and treatment of the whole subject of insanity, in the interest not only of the insane themselves, but also of the public.

Treatises on the subject, demanding reforms based upon substantial grounds, are issued from time to time, and have a certain influence for good. But it is largely of an ephemeral character—too dilatory in its effects to be relied upon, unless after long periods of injustice or suffering.

This volume presents the facts and materials for a "comparative anatomy" of almost all civilized legislation on this subject. Instead of a volume of reasonings and appeals it lays before the community and throws in the way of our legislators a complete collection of the legislation of all our States and Territories, and of the most important legislation of England and other foreign countries in regard to the care of the insane; in the hope that every State will be stimulated to see to it, without delay, that its laws on this subject are as good as the best. Why should they not be? Every State owes it to its reputation not to be behind in this matter. The manner in which the insane are treated in any country is an index of its stage of civilization. Consider when and where the aged, the sick, and the infirm were left to die, and the destitute to starve, and when and where the insane were chained in filthy dens, fed like wild beasts in a cage, and left to perish uncared for and alone. The legislation on this subject, which is now, in some shape, almost universal in civilized countries, attests the acknowledged need of such laws; and the most defective, as well as the more perfect legislation may alike read us an instructive lesson. As all must seek to have the best laws in this case, and none can afford to be delinquent, may not much good be expected from spreading before all, in one comparative view, the whole legislation now extant on the care and treatment of the insane?

Of those who are afflicted with this malady there are various classes, and there are various kinds and degrees of the malady itself, so that a great variety of legislative and administrative provisions is required for the care and treatment of all. There are the rich and the poor, the befriended and the friendless, the curable and the incurable, the quiet and the violent, the gentle monomaniac and the raving madman, the harmless and the homicidal, the simply deranged and the utterly demented, the innocent and the criminal or the *quasi-criminal*, the unquestionably insane and the doubtfully insane, and so on.

I mention these various forms of the malady in order to show how large and complicated a matter legislation for the insane must necessarily be. I will, however, remark specially upon two or three classes only, having treated the subject at length elsewhere.

As for the insane who have independent means of support, or relations and friends that are able to furnish them, the State is not called upon to provide for the expense of their care and treatment. But even in their case laws may be needed for protection against the ignorance, the negligence, or the ill-will of their relations or pretended friends, to supervise their treatment, whether at home or in private institutions, and to secure any against being consigned to such institutions on an unfounded charge of insanity. To such the State may also well give free access to its own asylums or hospitals, being indemnified for their expenses, so that they may have the best care and treatment that medical science can afford. But, in that case, special care should be taken to provide that their presence should not crowd out any of the poor and friendless, or withdraw from these last, any portion of the kind and faithful attendance and treatment for which the state established and supports those institutions. There is danger in such circumstances that superintendents and physicians and nurses and servants should become disproportionately absorbed in those who have wealth and culture and social position and friends to recommend them, and to flatter the pride and reward the kindness of those who care for them.

It is the poor and friendless insane that are properly the wards of the State; and the State is required by every principle of common humanity, by a regard for its own reputation

as a civilized community, and by the simplest considerations of sound policy, to make due provision for their safe keeping, care, and treatment, that so their grievous and disabling malady may, if possible, be cured, and themselves restored to activity and usefulness; or, if incurable, that they may be kept under such kind restraint as the public safety requires, and enjoy such comforts as humanity demands. If cared for at all, these must be cared for at the public expense. For all these the State should provide asylums or hospitals, that none may be left to the inhuman outrage of being incarcerated with felons in prisons, or to the unutterable wretchedness of languishing or raving their lives away under the ignorant and unfeeling treatment of the almshouse. These hospitals or asylums should be placed under the charge of the most skilful superintendents, to be men not only of the most thorough medical training as specialists, *but of the best common sense and administrative ability, of humane instincts, and of large and ripe experience.* The hopelessly incurable may better be provided for in an entirely separate establishment under simpler and cheaper arrangements.

For the *quasi-criminal* class there would seem to be no need of any special establishment. Why should they not be distributed to their appropriate places in the ordinary asylum or hospital? I think there is no sufficient reason to exclude them. Perhaps for patients of this class, who, after treatment for a longer or shorter period, recover their soundness of mind, some special legal provision needs to be made.

For insane convicts, the properly *criminal* class, the State might provide either an entirely separate establishment or a separate department attached to the ordinary hospital, as economy and convenience should dictate. But no man acknowledged to be really insane should be kept in prison or in any department of a prison, especially after his prescribed term of imprisonment has expired. This was no part of his sentence. The State, having deprived him of his self-control and become his absolute master and guardian, may not leave him in bodily sickness to languish and die without the use of the proper medical remedies, and what is a necessary adjunct—proper care and nursing. Neither may she leave him to rave or mope himself into incurable madness or idiocy for the want of the treatment which the best medical skill and other alleviating provision

could furnish, and which cannot be had in the cells or purloins of a prison.

There remains another important branch of the subject, to which the attention must now be turned, namely, the general supervision of all the institutions and hospitals for the insane, and of the processes of committing persons to their charge, and of determining when their detention should cease.

It is not enough to have good laws, and wise and generous provisions. As much depends upon their faithful and judicious administration as upon the laws themselves. The gentlemen of the medical profession deserve the highest credit and the meed of lasting gratitude for their share in the modern reformation of the treatment of the insane, and in the amelioration of their condition by means of well appointed public asylums and hospitals. But they have sometimes shown quite too much sensitiveness at any suggestion of having their own administration submitted to supervision, especially on the part of laymen. But no man and no class of men can safely be entrusted with absolute and irresponsible control of their fellow men for an indefinite length of time; and experience has often shown the sad effect of such want of responsibility upon the character of excellent men in charge both of public and private institutions for the care of the weak and helpless. Besides, there is need of constant watchfulness against the negligence, the recklessness, the self-will, the cruelties, the abuse of their immediate power, their "little brief authority," on the part of the subordinates and attendants in such institutions. And as for supervision, any board or commission for the visitation of such institutions should be constituted chiefly of laymen. On considering the disagreement of a commission of "experts" recently appointed by the Governor of this State to determine the mental condition of a convict, with a view to commute his sentence if insane, an eminent physician said, that in all such cases, the commission should be composed of laymen with the exception of one able physician, who could advise as to the question whether the person to be examined was afflicted with a bodily malady, which might induce insanity. His impression was clear, that intelligent, conscientious business men, who had constant dealings with men, and whose judgment would necessarily be more clear as to the mental balance of a man, should be pre-

ferred to physicians, whose profession gave them comparatively but little opportunity of testing actually or by comparison, a person's *mental* soundness. Professional *esprit du corps*, too, needs to be guarded against; and laymen, while more surely impartial, are in fact not less competent judges than medical men of most matters to be submitted to official examination and inspection. This is indicated in the English as well as certain American laws.

The insane in hospitals exist in such unmitigated seclusion that the eyes of the community never rest upon them to any appreciable extent. They receive little or no recognition from the public, who may be quick to extend their sympathy and aid to the wronged and suffering of all other classes. This indifference not unfrequently extends itself even to those who are set over these unhappy beings, from the chief to the lowest attendant of the hospital. Rarely or never can injuries be so exposed as to come to the public eye, and are never considered, much less believed, upon the testimony of the suffering patient; who in a large majority of cases is quite capable of clearly and truthfully presenting the facts. It is unnecessary to say, for it has been recently exposed to the public in a most aggravated manner, that brutality even to the extent of causing death may obtain immunity even in a court of justice.

Such things could not be, if the community recognized the condition of these wards of the State and appreciated their infirmity, their needs, and the measure and character of the attention and relief which they require.

Few members of any community ever visit a hospital for the insane. Few strangers in a city make such an institution one of the objects which they desire or expect to investigate.

If in either case, there are exceptions, the show wards alone are open to inspection, or at most a hurried walk is made through the corridors, where the quiet patients lounge or saunter in unvaried depression or ennui. While the hospitals of all other descriptions, the asylums for the blind, the mute, the feeble-minded, the houses of refuge and even the prisons, are always open to the unrestrained inspection of all respectable people, this asylum for the mentally diseased is practically closed against such "intrusion." The necessity does not exist at all, in the degree alleged.

I am not ignorant of the fact that unguarded and indis-

criminate visiting at all times and under all circumstances would be injurious to some of the patients, and would derange the administration of the hospitals. Such license would be mischievous anywhere, and more especially where the inmates, in large proportion, require freedom from disquieting influences. On the other hand, however, the social experiences of the inmates of almost all hospitals for the insane, are of a nature to induce insanity, where it does not exist, to intensify it, where it does exist, and to drag down to irremediable madness the unhappy victims of such companionship as they are consigned to, in these institutions. It becomes, therefore, all parties in authority in these institutions, in the State and in the community, to mitigate this fundamental evil, and remove as far as possible this chief hindrance to recovery or amendment, by a relaxation of the system of isolation from all companionship or familiar intercourse, outside the ranks of their fellow-sufferers and their keepers; the one always suggestive of an indefinite imprisonment, the other of unrelieved misery and distress. I speak, of course, of the general condition of a class and not of exceptional cases.

Not only public asylums and hospitals, but also private houses and institutions for the care of the insane need visitation and thorough inspection, both for the protection of their inmates, and for the protection of the community. Care must be taken lest, through the malice of relatives or guardians, and the incompetence or collusion of (so-called) physicians, they become places for the hopeless incarceration or detention of perfectly sane and innocent persons, who, being forced helplessly into such a condition, and surrounded by such associations, may, after no very long time, be actually reduced to a state of real and remediless insanity or idiocy. The degree of M.D., even though the prescribed course of study has been thoroughly mastered—which is far from being always the case—does not of itself qualify a man to decide upon the question of the sanity or insanity of an individual. There is no good reason why as great care should not be taken that no sane person should be incarcerated in an asylum or hospital, whether public or private, as that no innocent person should be subjected to punishment with the guilty.

For a further and very complete exposition of all this part

of the subject—at least in relation to the legislation of one State—reference is here made to the Appendix, containing the Report of a Commission appointed by Governor Hoyt, of Pennsylvania, in 1882, “to consider the question of the care of the insane in this Commonwealth, the mode of their introduction into public and private asylums, the general scope of their treatment, the mode of their supervision and release, which are believed now to be inadequately guarded and provided for; to examine into the present system, and inquire into the legislation of other States and countries, and report the result of their investigations, conclusions, and recommendations, for the further protection and amelioration of the insane.”

To this report is appended the draft of a law submitted by the commission. It will be seen by reference to the laws of Pennsylvania on this subject, that, with some changes, this draft was adopted by the Legislature and enacted into a statute. As I cannot regard these changes in the light of amendments, the draft of the commission is here printed at the end of the report, and is commended to the careful consideration of future legislatures in the several States.

I cannot claim the right to name the best examples of lunacy laws in the different States; but as some references may be convenient, I will state that I consider those of Massachusetts, Wisconsin, New York, Iowa and Pennsylvania worthy of commendation. There are, no doubt, others of equal merit.

The compilation of this volume has been a work of much labor and difficulty. Exactness has been necessary throughout all its pages, and great embarrassment has been experienced both in obtaining access to the required legislation and in extracting from the mass of laws on the subject in every State, precisely what was actually in force at a given date.

I had the good fortune to obtain the assistance of Albert B. Roney, Esq., a very intelligent lawyer of Philadelphia, and his brother, W. S. Roney, Esq., whose industry and appreciation of accuracy have been of the greatest value in the production of this work. I have also received valuable assistance from Dr. Ourt, Secretary of the Penna. Lunacy Committee.

G. L. H.

JANUARY, 1884.

ALABAMA.

GOVERNMENT OF ASYLUM.

1. Establishment of asylum.
2. Corporate powers and title.
3. Property of corporation.
4. Government vested in board of trustees.
5. Board of trustees, appointment, term of office, compensation.
6. Powers and duties; superintendent, term of office; assistants, salaries.
- ADMISSION AND SUPPORT.
7. Counties entitled to patients in ratio of insane population, census required.
8. Indigent patients chargeable with actual cost; private patients in measure with care.
9. Preference given to indigent patients, and to chronic cases.
10. Admission of private patients, bond, charges, physician's certificate, interrogatories.
11. Unexpended moneys returned.
12. Term "male" applies to females.
13. Admission of indigent patients, interrogatories, examination, and physician's certificate.
14. Certificates of judge and physician.
15. Private patients may be continued as indigent.
16. Condition of patients as to cleanliness.
17. Expenses of commitment paid by county.

EXAMINATION OF CRIMINAL INSANE.

18. Examination of acquitted criminals.
19. Examination of person charged with crime; discharge when sane.
20. Examination of persons charged with misdemeanors.
21. County commissioners may act instead of judge.

DISCHARGE FROM ASYLUM.

22. Indigent patients entitled to two years; unless then benefited, discharged.
23. Expenses of removal borne by county.
24. Discharged patients supplied with clothing and money.

INSANE CONVICTS.

25. Physician of penitentiary to report insane convicts.
26. Insane convicts removed to asylum.
27. Compensation for removal.
28. Restored convicts returned to prison.
29. Convict insane at expiration of term transferred to asylum.

MISCELLANEOUS PROVISIONS.

30. Annual appropriation for hospital.
31. Officers exempt from jury and road service.
32. Records of hospital to be filed.
33. *Ex-officio* visitors of asylum.
34. Roads through asylum grounds prohibited.

1. There is established in the state of Alabama a state hospital for the care and proper treatment of insane persons, which is located in the county of Tuscaloosa, and near the city of Tuskaloosa.

Code of 1876.
§ 1470.
Establishment
of hospital.

2. Such institution is a body corporate and politic, under the name and style of "The Alabama Insane Hospital," and by that name may sue and be sued; may contract and be bound; have, possess and enjoy real and personal property, and have perpetual succession; may have and use a common seal, and break or alter the same at pleas-

§ 1471.
Is a body cor-
porate.

ure; and for the purposes herein set forth, have all powers properly incident to corporations of such nature; and suits for and against such corporations may be brought in the appropriate courts of the county of Tuskaloosa.

3. The property of such corporation consists of such funds § 1472.
Property of
corporation. as have been or may be provided by the state for the establishment and support of such hospital, and of such other money, property and assets as may be acquired by such corporation by gift, devise, bequest or otherwise, and the profits thereof, and of the land which has been procured, and buildings which have been or may be erected, and of the other property which has been acquired, to be used for the care, maintenance, treatment and cure of insane persons.

4. The affairs of the corporation must be managed and governed by a board of trustees, consisting of a president and six others, and not less than four of the seven shall constitute a quorum, a majority of which shall decide in all cases, and may bind the corporation. § 1473.
Board of trustees.

5. The president and trustees must be nominated by the governor, as often as necessary, to the senate for its confirmation or rejection, and the appointment is completed by the confirmation of such nomination. § 1474.
President and
trustees, how
chosen; quali-
fications, resi-
dence, term,
compensation,
removal. The governor must temporarily fill all vacancies in the recess of the senate, and his appointment shall continue till the action of the senate be had thereon. They must be selected with a view to their capacity for the management of the hospital. Three of the trustees, or the president and two trustees, must be residents of Tuskaloosa county, or of a county adjoining it, and the remainder must be residents of other parts of the state. The present arrangement of the commencement and end of the respective terms of the six trustees, whereby the term of [two] trustees shall expire at the termination of each successive period of two years, is continued. The term of the president and each of the trustees is six years, except where a trustee is appointed to fill a vacancy, in which event the appointment is made for the unexpired term of the vacated office. All appointments made by the governor, before confirmation by the senate, are temporary filling of vacancies until they are confirmed. The governor has power to remove the president or a trustee for cause deemed sufficient by

him. The senate may likewise make such removal at any time by a vote of a majority of the whole body. The president and trustees receive no other compensation than the amount of traveling expenses actually paid out while attending on the business of the corporation.

6. The president and trustees have power to make all regulations and by-laws for the government of the corporation, and shall put the hospital in use for the support, treatment and cure of the insane; they must appoint a secretary and treasurer, and such other officers and agents as may be necessary; they must appoint a superintendent of the hospital, who shall have in charge the conducting of the same. The superintendent must be a skilful physician, and bear an unblemished moral character; he must have received an enlightened and thorough professional education; be possessed of prompt business habits, and be of a humane, kindly disposition; he must be a married man, and must, with his family, reside constantly in the institution. Such superintendent must be appointed for a term not less than eight years, and must not be removed, except for incompetency, fully shown and declared, or for the neglect and infidelity to the trust reposed in him. Such superintendent must appoint all such assistant physicians, nurses, servants and agents as by the rules of the institution shall be allowed and wanted; and he shall have full control over them, and may discharge them at pleasure; he shall direct their several duties, and see to the performance thereof; and he must be responsible to the board for the proper performance of those duties. The trustees must determine what salaries and compensation shall be paid to the superintendent and other officers, servants and agents employed, and may remove any of them. The board must hold an annual meeting, and also monthly meetings, and such other meetings as they may provide. The monthly meetings may be held by the three trustees residing near the hospital, for all ordinary purposes, to act under the authority of the board, and each, in rotation, shall serve one month to visit the hospital once a week, and the monthly board must see that the establishment is at all times supplied with provisions, fuel, water, clothing, medicines, implements, and all other things necessary for the health, comfort, cleanliness and

§ 1475.
Power and
duty of trustees; superintendent, his qualifications, term, removal, powers, salary; treasurer.

security of the patients. The board, at its annual meetings, must rigidly examine into the manner in which the hospital is and has been conducted, and must investigate the condition of every department of it. The treasurer must receive and pay out the moneys of the corporation, and must report annually to the secretary of state all sums received and paid out by him.

7. The insane patients must be received from the several counties in this state in the ratio of their insane population, and the several counties must be so entitled; but they must report to the secretary of state the census of their insane persons respectively, such reports to be made annually by the judge of the probate court.

§ 1476.
Insane received from counties in proportion to insane population, provided, etc.

8. Persons in indigent circumstances, while residing in the hospital, and whether in their own right, or by reason of the state bearing their expenses, must be chargeable with no more than the actual cost for clothing, nursing, board and medical attendance. Patients whose expenses are payable by themselves or friends, and who are not chargeable upon the counties, must pay in measure with the care received and according to the regulations which may be adopted. The board must publish the by-laws and regulations of the institution, and cause them, from time to time, to be circulated in the state for general information. They may provide for taking bond and security from all their agents and officers, conditioned for the faithful discharge of the duties of their office.

§ 1477.
Expenses of patients; publication of by-laws and regulations; bonds of agents and officers.

9. In order of admission the indigent insane must have precedence of the rich, and recent cases of both classes must have precedence over those of long standing; but paying patients from other states may be received into the hospital, should vacancies occur unclaimed by natives or residents of Alabama.

§ 1478.
Order of admission.

10. Before any applicant is received in the hospital as a paying patient, there must be produced to the superintendent:

§ 1479,
as amended,
1876, p. 193.
Patients are received.

(1) A sufficient bond, as hereinafter described.

(2) Three months' charges must be paid in advance.

(3) A certificate from one or more respectable physicians, declaring that in their opinion the applicant is insane.

(4) Application must be made to the superintendent, and the following interrogatories answered before the patient is presented for admission :

I. Name, sex and age of the person for whom application is made?

II. How long since derangement of mind was first suspected?

III. How long has it been plainly and openly manifested?

IV. Was it gradual or sudden in its approach?

V. What is the bodily condition of the patient—vigorous and healthy, or helpless and diseased?

VI. Has the patient epileptic convulsions, or paralysis in any form?

VII. Is the patient filthy or cleanly in dress and personal habits?

VIII. Is the patient noisy, violent, dangerous or destructive?

IX. What is the character of the insanity—how exhibited, the supposed cause thereof, and any other important facts bearing upon the case?

The bond and certificate before mentioned must be substantiated as follows:

"Know all men by these presents, that we and , of the county of , in the state of Alabama, are held and firmly bound unto the Alabama Insane Hospital in the penal sum of hundred dollars, for the payment of which we hereby bind ourselves, jointly and severally.

"Sealed with our seals and dated this day of , A. D."

The condition of the above obligation is as follows:

"Whereas, , of the county aforesaid, is about to be admitted as a paying patient into said hospital; now, if while he shall remain therein the undersigned shall constantly supply him with suitable clothing, and pay all charges of said hospital against him quarterly, in advance, and whenever his removal shall be required, immediately remove him; and if he shall escape from the hospital, pay all reasonable charges incurred in restoring him; and if he die therein, pay all reasonable expenses incurred for his funeral; and in case of failure to perform promptly and faithfully any of the above conditions, pay all losses that accrue to said hospital by litigation, collector's fees or otherwise, then this obligation shall be void, otherwise to remain in full force.

"Witness our hands and seals, this day of , A. D.

A. B., [Seal]

C. D., [Seal]

"I have examined into the state of health and mental condition of , and my opinion is that he is insane.

, Physician."

11. If there should be a balance in the treasury of the hospital
§ 1490.
Balance in
favor of re-
moved pa-
tients
returned. to the credit of a patient removed therefrom, the
treasurer must pay it to the person authorized to
receive the same.

12. Every term in this chapter importing the masculine
§ 1481.
Term male ap-
plies to
females. gender, applied to patients, extends and applies to
females as well as to males.

13. When a person in indigent circumstances becomes in-
§ 1482,
as amended,
1876, p 189.
Proceedings
for admission
of the indi-
gent, and fund
for their sup-
port. sane, application can be made by his friends, or
any other person in his behalf, to the judge of the
probate court in the county where he resides; and
such judge must, without delay, make application
to the superintendent of the hospital for his admis-
sion, and accompany the application with full and satisfactory
answers to the following interrogatories:

(1) Name, sex, age and color of the person for whom applica-
tion is made?

(2) How long since derangement of mind was first sus-
pected?

(3) How long has it been plainly and openly manifested?

(4) Was it gradual or sudden in its approach?

(5) What is the bodily condition of the patient—vigorous
and healthy, or helpless and diseased?

(6) Has the patient epileptic convulsions, or paralysis in
any form?

(7) Is the patient filthy or cleanly in dress and personal
habits?

(8) Is the patient noisy, violent, dangerous or destructive?

(9) What is the character of insanity—how exhibited, the
supposed cause thereof, and any other important facts bearing
upon the case?

When informed that the patient can be received, the judge
must call one respectable physician and other credible wit-
nesses, and fully investigate the facts in the case, and either

with or without the verdict of a jury, at his discretion, must decide the case as to sanity and indigence; and if the judge believe that satisfactory evidence has been adduced showing the patient to be insane, and his estate insufficient to support him and his family, (or himself alone, if he has no family,) under the visitation of insanity, he must, upon the judge's certificate, be sent, within thirty days, to the hospital at the expense of the county, and be supported there at the expense of the state; and the superintendent shall be required to keep the vacancy open for a period of thirty days after the date of his notice that the patient can be received. The judge, in all such cases, shall have requisite power to compel the attendance of witnesses or jurors, and must file the certificate of the physician, taken under oath, and other papers relating to the case, with a report of the proceedings and the decision.

14. In cases provided for in the foregoing section, copies of the judge's and physician's certificates shall be sent with the indigent insane person, and filed by the superintendent of the hospital. Such certificates shall read substantially as follows:

§ 1483,
as amended,
1876, p. 191.
Certificate of
the judge, and
its form.

I, A. B., judge of the court of probate of the county of _____, and state of Alabama, do hereby report that application has been made to me in behalf of C. D., a resident of said county, alleged to be insane and in indigent circumstances, and pursuant to the act of the legislature in such cases made and provided, I have called before me Dr. _____, a respectable physician, and other creditable witnesses, to wit: (state their names), and having examined them and fully investigated the case, and not deeming it necessary to call a jury, I do hereby decide and certify that satisfactory proof has been adduced before me, showing the said C. D. to be an insane person, and that he has not sufficient estate or means to support him under said visitation of insanity.

Given under my hand, at _____, in the county and state aforesaid, this _____ day of _____, in the year _____.

A. B.,

Judge.

I, E. F., of the county of _____, and state of Alabama, being duly sworn according to law, do certify and declare that I have examined into the state of health and mental condition of C.

D., of the said county of , and that my opinion is that he is insane.

E. F.,

Physician.

Sworn to and subscribed before me, this day of ,
A. D. .

I, A. B., judge of the probate court of , do hereby certify that the foregoing is a true copy of my report and certificate in the case of , and also of the certificate of Doctor , thereto appended, as filed in my office.

In witness whereof, I have hereunto set my hand, at ,
this day of , A. D. .

A. B.,

Judge.

15. When an insane person in indigent circumstances has been sent to the hospital by his friends, who have paid his bills therein for three months, if the superintendent shall certify that he is a fit patient, and likely to be benefited, by remaining in the institution, he may be retained therein at the expense of the state, on the certificate of the probate judge of his county, declaring his indigence.

§ 1484.
Continuance
of patient in
hospital.

16. The county officers sending a patient to the hospital, must, before sending him, see that he is in a state of perfect bodily cleanliness, and is comfortably clothed, and provided with suitable changes of raiment.

§ 1485.
Officers see to
cleanliness
and clothing.

17. All necessary expenses incurred by county officers in sending indigent insane persons to the insane hospital, shall be paid out of the county treasury on the order of the court of county commissioners.

§ 1486.
Expenses of
indigents,
paid by
counties.

18. When a person has escaped indictment, or been acquitted of a criminal charge on the ground of insanity, the court being certified by the jury, or otherwise, of the fact, must carefully inquire and ascertain whether his or her insanity in any degree continues, and if it does, shall order him in safe custody, and to be sent to the hospital; the state must defray his expenses while there, but may recover the amount so paid from his estate, or from any guardian or relative who would have been bound to provide for and maintain him elsewhere.

§ 1487.
Insane ac-
quitted on ac-
count of in-
sanity.

19. If any person in confinement under indictment, or for want of bail for good behavior, or for keeping the peace, or appearing as a witness, or in consequence of any summary conviction, or by an order of any justice, appear to be insane, the judge of the circuit court of the county where he is confined must institute a careful investigation, call a respectable physician and other credible witnesses, and if he deem it necessary, may call a jury, and for that purpose he is empowered to compel attendance of witnesses and jurors, and if it be satisfactorily proved that the person is insane, the judge may discharge him from imprisonment and order his safe custody and removal to the hospital, where he must remain until restored to his right mind, and then, if the judge shall have so directed, the superintendent must inform the judge and the sheriff, whereupon the person must be remanded to prison, and criminal proceedings be resumed, or he be otherwise discharged; the provisions of the preceding section requiring the state to defray the expenses of a patient sent to the hospital, shall be equally applicable to similar expenses arising under this and the following section.

§ 1488.
Insane confined under indictment, and for other causes.

20. Persons charged with misdemeanors and acquitted on the ground of insanity, may be kept in custody and sent to the hospital in the same way as persons charged with crimes, and the county courts and justices of the peace have the same power in reference to persons charged before them with misdemeanors as is bestowed upon the circuit courts in sections 1487 and 1488.

§ 1489.
Insane charged with misdemeanors.

21. If the judge of probate be dead or incapable of acting by reason of sickness or otherwise, the duties hereinbefore required to be performed by him are required to be performed, in the same prompt manner, by one of the commissioners of the county, and his acts in the premises shall have the same validity as the acts of the judge.

§ 1490.
County commissioner acts, if probate judge dead or incapable.

22. All indigent patients sent by order of the judge, as specified in section 1482, are entitled to two years residence in the hospital, unless sooner restored to soundness of mind; after that period, if, in the opinion of the superintendent, such patients are

§ 1491.
Pauper and indigent insane returned to county after two years.

not likely to be benefited by longer residence and treatment in the hospital, and are neither dangerous to the community, nor likely to suffer by removal, the superintendent is empowered to order the removal of such patients by the commissioners to the poor house of the county of which they are resident. [Query: Superseded by act of 1876, p. 275; see section 1499?]

23. Whenever the superintendent shall order a patient removed from the hospital to the county from which he came, the commissioners of such county must pay the actual and reasonable expenses of such removal, as part of the expenses of said county.

§ 1492.
Expenses of
removal of pa-
tients from
hospital.

24. No patient must be received or discharged without suitable clothing, and if it cannot otherwise be obtained the steward must furnish it and charge the same to the county from which he was sent. The patient must also be furnished by the steward, if it is not otherwise to be had, with money sufficient, not to exceed twenty dollars, to pay his expenses until he reaches home; and the cost of such clothing and money advanced must have precedence over other claims, and be repaid promptly by the commissioners of the county from which the patient comes, out of the first money which comes into the county treasury.

§ 1493,
as amended
1876, p. 188.

Discharged
patients
clothed and
supplied with
money.

25. The physician of the penitentiary must report to the governor the names of all insane convicts imprisoned in the penitentiary for a less period than lifetime, whose general deportment in the penitentiary has been good, and whose character was good before they were sent to the penitentiary, and who were not sent there for rape.

§ 1494.
Physician of
the penitenti-
ary reports
certain
classes of in-
sane convicts.

26. The governor must, when any case of insanity is reported to him, under the preceding section, appoint three physicians of skill and experience, of whom the physician of the penitentiary must be one, to examine the persons reported to be insane, and report to him the result of such examination; and if such board of physicians shall report such person insane, and a fit subject for the hospital for insane persons, the governor must cause such person to be removed to the hospital for insane persons at Tuscaloosa, at the cost of the state.

§ 1495.
Governor
causes remov-
al to hospital
on report of
physician.

27. The same compensation must be allowed for guarding any insane convicts in the penitentiary, to and from the insane hospital, as is allowed to sheriffs and guards carrying prisoners to the penitentiary, to be paid by the state.

§ 1496.
Compensation
for removal.

28. A convict to the penitentiary, sent to the insane hospital, must, upon his restoration to sanity before the expiration of his term of imprisonment, be returned to the penitentiary, or discharged, as the governor may order.

§ 1497.
Restored con-
victs returned
or discharged.

29. When any person is imprisoned in the penitentiary of this state, under a sentence of a circuit court, and is insane at the expiration of his term of imprisonment, the lessee must report the same to the governor, who must cause an examination to be made of the extent and character of such insanity; and if upon such investigation it be found that such person is a proper subject for confinement in the hospital for insane persons, he must order him to be removed from the penitentiary to the hospital; and if such person be in indigent circumstances, and had no known place of residence previous to his confinement in the penitentiary, the expenses of keeping such person must be paid by the state.

§ 1498.
Convict in-
sane at the ex-
piration of his
term.

30. For the support of the Alabama insane hospital, including the salaries of the resident officers, wages of the nurses and other employes, and ordinary repairs, with the board, clothing, lodging, and all other expenses of the indigent or criminal insane, the sum of four dollars per week for each indigent and each criminal patient shall be paid by the state, on the last days of March, June, September and December of each year; the auditor of public accounts to issue his warrant therefor on the order of the treasurer of the hospital, countersigned by the superintendent; but any balance remaining in the hands of the treasurer or steward at the end of the fiscal year, shall be placed to the credit of the fund for improvements and repairs, and applied expressly to those purposes.

§ 1499.
Appropriation
for support
of insane
hospital.

31. The superintendent and physician and his associates and employes are exempt from militia service, from liability to work on any public road or highway, and from serving as jurors.

§1500.
Officers and
others exempt
from certain
duties.

32. The monthly board, and the president and trustees, must cause to be kept proper records of all the acts and proceedings, and proper books of accounts of all the transactions of the institution; and must, once in each year, cause to be settled and balanced all the accounts and books of their agents and officers, and must fully examine and investigate the acts of all subordinate agents and officers, and must cause to be made out, and by the first day of December, annually, file in the office of the secretary of state, a full and detailed report of the situation and operations of the institution, and of all moneys paid and received, with such remarks as they may think proper to make, for the information of the governor, who must cause the same to be submitted to the general assembly at each session.

§ 1501.
Record to be
kept and re-
port made.

33. The governor, judges of the supreme court, and members of the general assembly, are *ex-officio* visitors of the insane hospital.

§ 1502.
Visitors.

34. No public highway is allowed on the grounds of the insane asylum.

§ 1503.
Roads.

ARIZONA TERRITORY.

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Examination of insane, physicians' certificate. 2. County supervisors to provide for insane; expenses, how borne. 3. Examination of liability for expenses. 4. Discharge from confinement. 5. Service of process by sheriff. | <ol style="list-style-type: none"> 6. Contract for support of insane in California asylum. 7. Counties may commit to asylum. 8. Support; expenses of borne by territory. 9. Support, warrants for, how drawn and paid. 10. Inspection of asylum. 11. Visitor, expenses of. |
|---|--|

1. The probate judge of any county in this territory, upon the application under oath, setting forth that a person by reason of insanity is dangerous, being at large, shall cause such person to be brought before him for examination, and shall cause to be summoned to appear at such examination two or more witnesses acquainted with the accused at the time of the alleged insanity, who shall be examined on oath as to conversation, manners and general conduct of the accused, upon which such charge of insanity is based, and he shall also cause to appear before him one or more graduates of medicine, and reputable practitioners thereof, who shall be present at such examination, and who, upon the hearing of the facts detailed by other witnesses, and a personal examination of the accused, shall set forth in a written statement to be made upon oath : First, his or their judgment as to the insanity of the party charged. Second, whether it be dangerous to the accused, or to the person or property of others, by reason of said insanity, that said accused go at large. Third, whether such insanity is, in his or their opinion, likely to prove permanent or only temporary ; and upon such hearing and statements as aforesaid, if the proofs shall satisfy the judge before whom such hearing is had that such party is insane, and that by reason of his or her insanity he or she be in danger, if at liberty, of injuring himself or herself, or the person or property of others, he shall, by an order entered of

Compiled
Laws of 1877.
§ 1193
Act of Feb. 17,
1871. § 1.

Probate
judge to ex-
amine persons
on application

Physicians.

May order
confinement
of insane per-
son.

record in a book kept for that purpose, direct the confinement of such person.

2. The board of supervisors of each county shall provide for the confinement of all insane persons in their respective counties, either in the county jail or in such other manner and place as shall in their judgment be best for the safety of said insane person and of the community, and shall draw their warrants in payment of all proper costs and charges therefor upon the county treasury ; and the county treasurer shall pay such warrants out of the general fund as other warrants are paid from said fund ; *provided*, that said insane person shall have no money or property from which said costs and charges may be paid, according to the provisions of this act.

3. The probate judge, at the examination mentioned in section 1 of this act, or at any time thereafter, may cause inquiry to be made into the ability of any insane person committed by him to bear the charges and expenses of his examination, commitment and maintenance while in custody ; and in any case where the insane person is able, by the possession of money or property, to pay such charges, or any portion of them, such judge shall appoint a guardian for such insane person, who, upon executing such bond as may be required by such judge, shall be authorized to take into his possession and control all the property, real and personal, of such insane person, and may, upon application to the probate judge of the proper county, obtain an order for the sale of such property, whether the same be real or personal, in like manner as such sales are ordered by said courts in cases of deceased persons ; *provided*, that, if such insane person have a family in this territory, no such order of sale shall be had of any property not subject to execution and forced sale. The guardian appointed

as hereinbefore mentioned shall pay the costs of the examination, and the expenses of the maintenance of said insane person, from the money and the proceeds of the sale of the property of said insane person, and shall, from time to time, make a report of the expenditures in this behalf to the probate judge, at his order, until all is expended ; or should said insane person be discharged, as provided for in section 4,

§ 1194.
Ibid § 2.

Board of supervisors to provide for insane.

§ 1195.
Ibid § 3.

Probate judge shall examine as to liability of insane person.

Guardian shall be appointed.

Duty of guardian.

then the said guardian shall make final settlement before the probate judge, and shall deliver to the person so discharged all the money and property remaining in his hands as guardian of said insane person.

4. Upon proof to his satisfaction being made that any person confined for insanity is no longer insane, or dangerous to himself, herself or any other person, the probate judge may, by order, direct that such insane person be set at liberty, and, upon receipt of a copy of said order, the sheriff shall set such person at liberty.

§ 1196.
Ibid § 4.

When restored to reason.

5. The sheriff shall serve all processes in the above mentioned proceedings, and shall receive the same fees as for similar services in the district court.

§ 1197.
Ibid § 5.
Sheriff to serve all processes.

6. The governor of this territory is hereby authorized, in person or by such agent as he may appoint for that purpose, to contract, on the part of this territory, with the authorities of the state of California, or with the proprietors of any hospital in said state, for the proper keeping, treatment and maintenance of the insane of this territory, if, in his judgment, such contract can be made upon reasonable terms, and in such manner as to secure the skilful treatment of such persons.

§ 1198.
Act of Feb. 13, 1873. § 1.

Governor authorized to contract for keeping the insane.

7. Whenever such contract shall have been entered into the board of supervisors of the several counties in this territory, may, in their discretion, whenever any person in their respective counties shall have been found insane and ordered to be confined cause such insane person to be sent by the sheriff or his deputy to such hospital.

§ 1199.
Ibid § 2,
as amended
by act of 1883,
§ 1, p. 264.
When contract is made, supervisors may send insane to such hospital.

8. The expense of sending such person to such hospital shall be borne in all cases by the respective counties from which such persons are sent, but their expenses and all charges for their care, treatment and maintenance while at such hospital, as well as expenses incident to their discharge therefrom or death, shall be chargeable to this territory.

§ 1200.
Ibid § 3.

Expense of maintenance, how paid.

9. The governor shall, from time to time, certify to the territorial auditor the amounts due under such contract as shown by properly verified accounts ren-

§ 1201.
Ibid § 4.

Governor shall certify amount due for keeping the insane. dered to the governor by the owner, proprietor or managing agent of any institution with whom such contract may be made, which accounts so verified shall be made at least once every three months, together with a statement showing the condition of any such person or persons under treatment at said institution, and it shall be the duty of

Auditor to draw warrant on treasurer. the auditor to draw his warrant on the territorial treasurer for said amounts, and the treasurer shall pay the same out of any money in the territorial treasury not otherwise appropriated.

10. It shall be the duty of the governor of the territory of Arizona to appoint some suitable person, living near the asylum of Langdon & Clark, in the state of California, whose duty it shall be to visit said asylum once in three months, and carefully examine the insane sent from Arizona to said asylum, and ascertain if they are properly cared for and treated; also, to examine their mental condition, and if found to be sufficiently restored to reason, to direct the physicians in charge of the asylum to discharge them, and report to the governor in writing after each visit the condition and treatment of said insane.

11. The territorial auditor is hereby authorized to draw his warrant for the sum of forty dollars each year in favor of such person as the governor may appoint to visit said asylum, and the territorial treasurer is hereby authorized and directed to pay the same out of any money not otherwise appropriated.

ARKANSAS.

GOVERNMENT OF ASYLUM.

1. Establishment of asylum; board of trustees, corporate powers, general powers.
2. Term of office of trustees.
3. Trustees to control; superintendent, appointment, qualifications.
4. Treasurer, steward, bonds of; assistants; salaries.
5. Records of asylum.
6. Inspection by trustees.
7. Meetings of trustees.
8. Special meetings, how called.
9. Reports filed with governor.
10. Vacancy in board of trustees.
11. Quorum; proviso.
12. Additional duties of treasurer.
13. Treasurer shall be secretary.
14. Annual appropriation.
15. Superintendent, to appoint assistants, record of patients, general duties.
16. Duties of treasurer.
17. Duties of steward.
18. Officers exempt from jury service.

ADMISSION AND DISCHARGE.

19. Who may be admitted.
20. Statement and oath filed.
21. Examination, physician's certificate, interrogatories.
22. Testimony filed with superintendent.
23. Answer of superintendent.
24. Warrant of commitment.
25. Execution of warrant.
26. Superintendent's receipt.
27. Indigent patients supported by state.
28. Private patients chargeable with

cost; repayment of unexpended moneys.

29. Classification of insane; idiots not admitted.
30. Selection of patients for discharge.
31. Counties notified of discharge.
32. Duties of county judge.
33. County officers to provide clothing.
34. Expenses of commitment and removal, chargeable to counties.
35. Penalty for improper commitment.
36. Counties apportioned by U. S. census.
37. Guardians of insane, duties of.
38. Examination and commitment of insane going at large; patient and relations liable for expenses.
39. Indigent insane admitted free of charge.
40. Arrest of insane found at large.
41. Commitment to custody.
42. County to recover expenses.
43. Liability of relations for expenses.

CRIMINAL INSANE.

44. Insanity of criminal to be found.
45. Insane convict treated in penitentiary.
46. Non-liability to law.
47. Trial for crime postponed until recovery.
48. Definition of sanity.
49. Trial of insane defendant.
50. Fact of insanity to be found in verdict.
51. Trial of insane criminal; postponement of judgment.
52. Trial of insane criminal after judgment; postponement of execution.

1. There shall be established at the city of Little Rock an institution for the care and management of lunatics in this state, to be organized and governed as follows, to wit: The governor shall, on the second Wednesday after the organization of the next general assembly of the state, and the same day every two years

R. S. of 1874,
Gantt's Digest,
§ 302,
as amended
by act of '83,
ch. 99, § 1.

thereafter, appoint by and with the advice and consent of the senate, five (5) persons to be trustees of the lunatic asylum, who shall be a body politic and corporate, by the name and style of the "Trustees of the Arkansas State Lunatic Asylum," and shall manage and direct the concerns of the institution, and make all necessary by-laws and regulations, not inconsistent with the constitution and laws of the state; and shall have power to receive, hold, dispose of, and convey all real and personal property conveyed to them by gift, devise, or otherwise, for the use of said institution; and they may sue and be sued; and they shall have power and authority to hold and purchase property for the benefit of such institution, and to purchase or erect suitable buildings for the same.

2. The trustees shall each hold their office for the term of two years or until their successors are qualified. Term of office. § 303, as amended by act of '83, ch. 99, §1.

3. The trustees shall have charge of the general interests of the institution. They shall appoint a superintendent, who shall be a skilful physician, and who shall hold his office for the term of four years; but they shall have the power to remove said superintending physician at any time for infidelity to the trust reposed in him, or for incompetency or wilful neglect of duty. Said physician shall, at the time of his appointment, be a married man, and reside with his family in said asylum. § 304. Superintendent.

4. They shall appoint a treasurer, who shall give bond for the faithful performance of his duties, in such sum and with such securities as the board of trustees may prescribe, which bond shall be made payable to the state and filed in the office of the auditor of state; and the board of trustees may require, from time to time, when they may deem the same necessary, the renewal of said bond; they shall also have the power to determine his compensation for services; also, the salary of the other officers and assistants, who may be necessary for the just and economical administration of the affairs of said institution. They shall appoint a steward, who shall give a bond for the faithful discharge of his duty, upon the same terms as are hereinbefore required of the treasurer. § 305. Treasurer. His bond. Compensation. Steward. His bond.

5. The board of trustees shall keep in a bound book, to be provided for that purpose, a fair and full record of all their doings, which shall be open at all times for the inspection of the governor of the state and all persons whom he or either house of the legislature may appoint to examine the same.

§ 306.
Records to be kept.

6. The trustees shall maintain an effectual inspection of the asylum, for which purpose one or more of them shall visit it at least once in every week.

§ 307.
Inspection weekly.

7. They shall hold a meeting of said board, at the asylum, once in every three months, or oftener if it shall be required.

§ 308.
Meetings quarterly.

8. Special meetings shall be called in the manner prescribed in the by-laws.

§ 309.
Special meetings.

9. The board of trustees shall, on or before the first day of every January, make a true report of the actual condition of said asylum to the governor, accompanied by the annual report of the superintendent and the treasurer. Upon the meetings of the legislature, the governor shall transmit said reports to it.

§ 310.
Annual report.

10. Upon the removal of any trustee beyond the limits of this state, or upon his failure to visit said institution, as required by the by-laws of said board, the office of such trustee shall become vacant, and the governor shall appoint a trustee in his stead, upon the fact being duly certified to him by the board of trustees.

§ 311, as amended by act of '81, ch. 41, § 4.
Discharge of trustees.

11. A majority of said board of trustees shall constitute a quorum to do any business connected with said asylum, except the repeal of any of the by-laws, or the removal of the superintendent, for which purpose it shall require at least four of the said board to act.

§ 312.
Quorum.

12. Such board shall have the power to prescribe any additional duty of the treasurer which may be deemed necessary.

§ 313.
Powers of trustees.

13. The treasurer shall be the secretary of the board of trustees.

§ 314.
Secretary.

14. To meet the current quarterly expenses of the asylum, the board of trustees shall make a written application to the governor, stating the amount required

§ 315.
Annual appropriation.

for that purpose, and the governor shall issue his requisition on the auditor, who shall thereupon issue his warrant upon the treasurer in favor of the trustees of the lunatic asylum, or such person or persons as the trustees may appoint; and the sum of \$10,000, yearly. ten thousand dollars per annum is hereby appropriated for the above purpose; *provided*, said amounts, together with the salaries, including all expenses, shall not exceed the sum of ten thousand dollars per annum.

15. The superintending physician shall have the power to § 316. Powers and ties of superintendent. appoint and remove all subordinate officers and persons allowed by the board of trustees. He shall, at the time of the reception of each patient, enter in Record. a book kept for that purpose, the name, age, sex, residence, office and occupation of the person, by whom and by whose authority each insane person is brought to the asylum, and have all the orders, warrants, requests, certificates, and other papers accompanying such insane person, carefully filed and forthwith copied in said book; he shall also have general superintendence of the buildings, grounds and farm, with their furniture, fixtures and stock, and the direction and control of all persons therein, subject to the by-laws and regulations of the trustees; he shall daily ascertain the condition of the patients, and prescribe their treatment, in the manner prescribed in the said by-laws; and he shall also be required Discipline. to see that all the rules and regulations for the discipline and good government of the institution are properly obeyed and enforced; he shall cause full and fair accounts, and records of all his doings, and of the entire business and operations of the institution, to be kept regularly, from Daily record. day to day, in books provided for that purpose, in the manner and to the extent prescribed in the by-laws, and shall see that all such accounts and records are fully made up to the last day of December in each year, and that the principal facts and results, with his report thereon, be represented to the trustees immediately thereafter.

16. The treasurer shall receive, collect, sue for, and pay out § 317. Duties of treasurer. all moneys belonging to the institution, settle his accounts with the board at least once in every three months, or oftener if they shall require it, and in the month of December of every year with the auditor; and he shall

keep his books and vouchers as shall be prescribed by the board of trustees in their by-laws.

17. The steward shall keep a regular account of all daily disbursements for the institution, take vouchers for all payments, and keep carefully and file away all original bills for supplies purchased by him for said asylum, settle his accounts with the superintendent and treasurer once in every month, with the board once in every three months, and with the auditor in every December. He shall keep his accounts always open for the inspection of the superintendent, or any trustee, or the treasurer. The steward shall be accountable for the careful keeping and economical use of all furniture, stores or other articles provided for the asylum; he shall, annually, during the month of December, make and file with the trustees a true and perfect inventory, verified by oath, of all personal property of every description, belonging to the asylum, with the estimated value of different classes of articles, and do and perform such other duties as shall be required of him by the by-laws ordained by the board of trustees.

§ 318.
Duties of
steward.

18. The resident officers of the asylum and attendants and assistants employed therein, during the term of such employment, shall be exempt from serving on juries, and the certificate of the superintendent shall be evidence of such employment.

§ 319.
Exemption of
officers from
jury service.

19. Any citizen of the state of Arkansas, or resident of said state, who may be, or hereafter become insane, may be admitted to the state lunatic asylum, as a patient, proper proof having been made, and proceedings had, according to the provisions of this act.

Act of 1883.
No. 19, § 1.
Who may be
admitted.

20. Whenever it shall appear that any person, entitled to admission to the state lunatic asylum, is insane, any reputable citizen of the state may file a written statement with the county and probate judge of the county in which such supposed insane person may reside, which statement shall be substantially as follows:

Ibid § 2.
Who may file
information.

I, _____, hereby certify that _____, a citizen or resident of _____ county, state of Arkansas, is, to the best of my belief, insane, and that he (or she) ought to be committed to a state lunatic asylum for care and treatment, as his (or her) being at large is dangerous to the community, or prejudi-

Form of oath.

(14) Is he (or she) a person of more or less than ordinary education?

(15) Is he (or she) a professor of Christianity, or has he (or she) ever been such?

(16) Was he (or she) regarded by his (or her) neighbors and acquaintances, when in his (or her) normal condition, as more or less than ordinarily intelligent?

(17) Has he (or she) ever suffered great bodily pain, sickness, injury or violence? (Particulars.)

(18) Has he (or she) ever been subject to fits of any kind?

(19) Has he (or she) ever indulged habitually or occasionally in the use of intoxicating liquors to excess?

(20) Has he (or she) habitually an appetite for tobacco, opium, morphine, laudanum, or any other drug?

(21) Has he (or she) experienced any great shock or strain of mind recently?

(22) Were his (or her) parents or grandparents, or any of them, ever intemperate, insane, or subject to fits? (Give all facts as far as known.)

(23) Is there now, or has there been, any one of his (or her) immediate relatives insane, intemperate, epileptic or hysterical to a marked degree? (State all facts.)

(24) Has he (or she) been treated medically with a view to remedying his (or her) mental derangement? (By what physician, or in what manner if practicable?)

(25) Is he (or she) free from any loathsome or infectious disease?

(26) Has he (or she) more than sufficient estate for the support of his (or her) natural dependents?

22. If it shall appear to the said county and probate judge, upon his hearing of all testimony in the case, and from the statement of the physician or physicians, as indicated in the preceding section, that the original statement filed with him, by the said citizen, is true, he shall so decide; and shall, without delay, transmit to the superintendent of the state lunatic asylum his decision in writing, with copies of the original statement filed with him by said citizen, and of the statement of said physician or physicians, including the interrogatories and answers, as heretofore specified.

Ibid § 4.
Transmission
of testimony
to superintendent.

23. The superintendent of the state lunatic asylum, on receipt of the decision of the said county and probate judge, with the copies of the original statement by the said citizen, and statement of said physician or physicians, as heretofore prescribed, shall immediately notify the said county and probate judge of his readiness to admit the said insane person into said asylum, if there be room unoccupied ; but if there be not room unoccupied, he shall notify the said county and probate judge of the fact, and shall return to him the copy of his decision, with the accompanying papers, endorsed accordingly ; and he shall enter upon an appropriate page of the register of said asylum, the name of the said insane person, and the name of his (or her) county, in the order in which the decision of the said county and probate judge was received, and he (or she) shall be entitled to precedence of all who may come thereafter.

Ibid § 6.
Duties of superintendent. 24. On receipt of notice from the superintendent of the state lunatic asylum, of his readiness to admit said insane person into said asylum, the county and probate judge to whom such notice is directed, shall, immediately issue a warrant or order, with the seal of his office attached, commanding the sheriff of his county, or suitable deputy, to take the said insane person into custody, and deliver him (or her), without delay, to the superintendent of the state lunatic asylum of Little Rock.

Ibid § 7.
Execution of warrant. 25. The sheriff of any county, or any person deputized by the county and probate judge, to whom a warrant or order, properly issued, may come, commanding the arrest and delivery to the superintendent of the state lunatic asylum of any insane person, shall proceed without delay to execute such warrant or order, and may call to his assistance such physician, nurse or other person as the said county and probate judge may indicate, as necessary for the safe and judicious transfer of the person to be so arrested and delivered, and shall deliver the said insane person as directed, without unnecessary force, restraint or publicity, by the most direct and practicable route and method of travel.

Ibid § 8.
Endorsement of date. 26. Whenever any sheriff, or any person deputized for the purpose, shall deliver any person duly admitted and accepted to the superintendent of the state lunatic

made, the treasurer of said asylum shall refund to the natural or legally constituted guardian of said insane person, an amount proportional to the unexpired time, for which such payment had been made, provided that indigent persons who are not able to pay, or who have no estate out of which to pay such expenses, shall have preference over those who have such estate.

29. All persons found to be insane, for whom application Ibid § 13.
Degrees of
insanity. for admission to the state lunatic asylum shall be made in compliance with the provisions of this act, shall be classified as "acute," "chronic" or "probably incurable," such classification to be determined by the duration of the disease, and such complications as are known to render recovery doubtful, if not impossible. All cases of less than one year's duration, from first recognized symptoms of insanity, shall be classified as "acute;" all cases over one year's, shall be classified as "chronic;" and all cases complicated with epilepsy, original imbecility or feeble-mindedness, deformities of skull from injuries, old age, or general paralysis, shall be classified as "probably incurable;" and a reasonable discrimination shall be made by the authorities in charge of the asylum in the admission of insane persons, in favor of, first, "the acute," second, "the chronic," third, "the probably incurable," *provided*, that no person of either classification shall be refused admission, as long as there is unoccupied room for patients in the asylum. But no idiot, nor congenital imbecile, nor epileptic person, not otherwise insane, shall be admitted or retained in said asylum, after the fact of such condition becomes apparent to the superintendent, under any circumstances.

30. Whenever application is made for the admission of an Ibid § 14.
Power of
superinten-
dent to dis-
charge in
order to make
room. insane person, according to law, and there is, at the time, no unoccupied or available room in the asylum, if it shall appear from the history of the case presented, that it is "acute" and uncomplicated, the superintendent shall, as soon as practicable, make room for the admission of such patient, by discharging some one inmate belonging to the "probably incurable" class, if such there be in the asylum, or one belonging to the "chronic" class, if there be no one dischargeable from the third class; but in making such selection for discharge, the superintendent shall

discriminate and discharge such an one as may have been longest in the asylum, if not violent or dangerous to the community, or such an one as may be the least dangerous to the community, or whose discharge will effect the least public inconvenience or costs; and no appeal shall be had from the decision of the superintendent of the asylum in matters of admission and discharge of inmates, except to the board of trustees of the asylum, who may direct the superintendent to admit or discharge any person under any circumstances not involving a violation of the law.

No appeal from superintendent's decision, except to trustees.

31. When, by reason of recovery, or necessity for the benefit of an insane person of the "acute" class, the superintendent of the state lunatic asylum thinks proper to discharge any inmate of the asylum, he shall send an official notice to the county and probate judge of the county from which such inmate was committed, by mail, which shall be substantially as follows:

Ibid § 15. Form of notice of discharge.

"State Lunatic Asylum, Little Rock, Ark., 188
To the county and probate judge of _____ county:
You are hereby notified that _____, an inmate of this
asylum, who was admitted from _____ county on _____ day of
_____, 188____, is this day registered for discharge, (because
of recovery, or to make room, or whatever circumstances govern
the case,) and you are requested to cause his (or her) immediate removal. The sheriff will, or not, need the assistance of
_____ persons for his (or her) safe return to your county.

[L. S.] Signed,

_____, Supt."

32. The county and probate judge of any county in the state of Arkansas, who may receive official notice from the superintendent of the state lunatic asylum, that an inmate from the county of which he is county and probate judge has been registered for discharge, and a request to cause the removal of such inmate, shall forthwith issue a warrant or order to the sheriff, or a suitable person whom he may depute to perform the service, commanding him to remove such inmate without delay, and authorizing him to employ such assistance as the superintendent's notice may indicate, if any. The said county and

Ibid § 16. Duties of judge when notice of discharge is given.

probate judge shall, at the same time, notify the guardian, family or immediate relatives of the person so discharged from the asylum (if he or she have any) of such discharge, and the sheriff, or person deputized, as hereinbefore indicated, shall deliver the person so discharged to his (or her) guardian or home, if he (or she) have such guardian or home, still in the county, or to such party and place in the county as may be provided for the further custody and maintainance of the person so discharged, if he (or she) be not recovered and capable of taking care of himself (or herself); and shall make due return of his warrant when executed; *provided*, that nothing herein specified shall prevent an inmate of the lunatic asylum, who may have recovered his (or her) reason, from being unofficially removed from the asylum by consent of the superintendent, or any person being removed by their friends with the consent of the superintendent, or by direction of the board of trustees of said asylum. But notice of such removal shall be sent at once to the county and probate judge of the county from which such person so removed was committed.

33. Any sheriff or deputized person, who may be commissioned to transfer and deliver a person declared insane, to the state lunatic asylum, from any county in the state of Arkansas, shall, before delivering such person to the superintendent of said asylum, see that the person so to be delivered, is provided with sufficient and suitable clothing, which shall consist of not less than two shirts, two pairs drawers, two pairs socks, one pair shoes, one pair pants, one vest and one coat, for men; two chemises, two skirts, two waists, two pairs drawers, two pairs stockings, two dresses, one shawl and one bonnet, for women, which shall be clean and in good order, as good as new; or, if more convenient, the sheriff may deposit with the superintendent sufficient funds to enable the asylum to furnish any deficiency found to exist in the supply of clothing brought with the person, because of quantity or quality of same, the amount of which deposit the superintendent shall endorse upon the sheriff's warrant as received.

34. Each county in the state of Arkansas shall be chargeable for all expenses of commitment, delivery to and removal from the state lunatic asylum, of persons resident of the respective counties, and shall reim-

Ibid § 17.
Duties of
sheriff on
delivery

Ibid § 18.
Expenses
chargeable to
counties.

burse the sheriff for money deposited with the superintendent for deficiencies of clothing of patients, in accordance with law.

35. If any person or persons shall, in anywise, attempt to introduce any person into this institution contrary to the provisions of this act, such person or persons shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty (50) nor more than three hundred (300) dollars.

Ibid § 19.
Penalty for
attempt to in-
troduce insane
contrary to act.

36. For the purpose of more fully carrying out the provisions of this act, it shall be the duty of the superintendent of the asylum, as soon as the building is ready to receive patients, to apportion to each county the number of patients it will be entitled to take in as the terms of the proportion: the number of inhabitants in the state, the number in the county, and the number of patients the institution will accommodate, the last census taken by the United States to be the basis as to number of inhabitants. He shall immediately notify the county judge of each county of the number of patients the county is entitled to, and in all cases each county shall be entitled to the number apportioned to it, to the exclusion of any other patients.

Ibid § 20.
Counties to be
apportioned.

37. Immediately after the appointment by the court of any guardian for a lunatic or insane person, such guardian shall take steps to have the person thus placed in his charge admitted into said asylum. * * * * *

§ 320,
amended by
act of 1883.
No. 19, § 10.
Guardians—
duties of.

38. In case the friends or relations of any lunatic shall neglect or refuse to place him in said asylum, and shall permit him to go at large, it shall be the duty of the circuit court sitting in any county in which such lunatic may reside or be found going at large, on the suggestion in writing of any citizen of the county, to direct the sheriff, by writ of lunacy, to summon, as soon as may be, twelve discreet persons of the county in which such lunatic is going at large, to make inquisition thereto on oath, and the result of such inquisition to return to said court forthwith; and if the person said to be a lunatic shall be adjudged by such inquest, or by a majority of them, to be insane, the said court shall order the sheriff to arrest said lunatic and place him in said asylum; and in all cases where an insane person shall be placed in said

§ 324.
Commitment
of lunatic
going at
large.

asylum by the voluntary act of his friends or relations, or by the provisions of this act, if the said insane person shall be possessed of or entitled to an estate, the same shall be chargeable with all expenses of convicting him of lunacy, as well as the expenses of taking care of said lunatic in said asylum. [How far supplied by pl. 20 supra?]

39. Any person being a lunatic and a resident of this state, § 325.
Indigent
insane. and having or owning no estate wherewith to pay his expenses, shall be admitted in the asylum free of charge. When a certificate of some judge or justice of the peace is produced that sufficient proof by affidavit has been made before him that such lunatic has no visible means to defray his expenses, the necessary expenses of removing such lunatic to and from said asylum shall be paid by the treasurer thereof. [How far supplied by pl. 27 supra?]

40. Insane persons found at large and not in the care of some discreet person, shall be arrested by any peace officer, § 3535.
Insane
persons found
at large. and taken before a magistrate of the county, city or town in which the arrest is made.

41. Such magistrate shall make such orders as may be necessary to keep him in restraint until he can be sent, § 3536.
Commitment
of insane per-
sons found at
large. by due process of law, to the lunatic asylum, if there be one in the state; and if such insane person has not friends to whose custody or care the magistrate can commit him, he may order him to be confined in the county or city jail; and shall immediately give notice thereof to the city or county attorney, whose duty it shall be to take the proper proceedings for having the insane person sent to the lunatic asylum.

42. In all cases of appropriations, out of the county treasury for the support and maintenance, or confinement of § 3538.
How mainte-
nance recov-
ered by
county; and
from whom. any insane person, the amount thereof may be recovered by the county from any person who by law is bound to provide for the support and maintenance of such insane person, if there be any such of ability to pay the same.

43. The father and mother of poor, impotent or insane persons, shall maintain them at their own charge, if of § 3539.
Duty of
relations. sufficient ability, and the children and grandchildren of poor, impotent or insane parents or grandparents, shall maintain them at their own charge, if of sufficient ability.

44. No person acquitted of crime on the ground of insanity, nor other person, shall be admitted into the state lunatic asylum, unless he (or she) shall have been duly found to be insane according to the provisions of this act.

Act of 1883.
No. 19, § 11.
Admission of
criminal
insane.

45. No person having become insane during any term of service or confinement in any penal institution, on account of crime, whereof he (or she) may have been duly convicted, shall be admitted into the state lunatic asylum during such term of service or confinement, but shall be treated for that disease inside of the wall of the penitentiary.

Ibid § 12.
When not
admitted.

46. A lunatic or insane person without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he may be charged.

§ 1227. Insane
criminals not to
be found guilty.

47. A person that becomes insane or lunatic, after the commission of a crime or misdemeanor, shall not be tried for the offense during the insanity or lunacy.

§ 1228.
Not be tried.

48. A person shall be considered of sound mind who is neither an idiot or lunatic, or affected with insanity, and who hath arrived at the age of fourteen years, or before that age, if such person know the distinction between good and evil.

§ 1229.
Definition.

49. If the court shall be of the opinion that there are reasonable grounds to believe that the defendant is insane, all proceedings in the trial shall be postponed until a jury be impaneled to inquire whether the defendant is of unsound mind; and if the jury shall find that he is of unsound mind the court shall direct that he be kept in prison, or conveyed by the sheriff to the lunatic asylum, if there should be one in the state, and there kept in custody by the officers thereof until he is restored, when he shall be returned to the sheriff, on demand, to be re-conveyed by him to the jail of the county.

§ 1828.
Trial of.

50. If the defense be the insanity of the defendant, the jury must be instructed, if they acquit him on that ground, to state the fact in their verdict.

§ 1966.
Verdict.

51. He may also show that he is insane. If the court is of opinion that there is reasonable ground for believing he is insane, the question of his insanity shall be determined by a jury of twelve qualified jurors, to be sum-

§ 1888.
Inquisition
of insanity.

moned and impaneled as directed by the court. If the jury do not find him insane, judgment shall be pronounced. If they find him insane, he must be kept in confinement, either in the county jail or lunatic asylum, if there be one in the state, until, in the opinion of the court, he becomes sane, when judgment shall be pronounced.

52. When the sheriff is satisfied that there are reasonable grounds for believing that the defendant is insane, § 2002.
Jury trial. he may summon a jury of twelve persons on the jury list, drawn by the clerk, who shall be sworn by the sheriff, well and truly to inquire into the insanity of the defendant, and a true inquisition return ; and they shall examine the defendant and hear any evidence that may be presented, and by a written inquisition, signed by each of them, find as to insanity. And, unless the inquisition find the defendant insane, the sheriff shall not suspend the execution ; but if the inquisition find the defendant insane, he shall suspend the execution, and immediately transmit the inquisition to the governor.

CALIFORNIA.

GOVERNMENT OF ASYLUMS.

1. Enumeration of officers.
2. Reports to be made every second year.
3. Number of copies to be printed.
4. Distribution of reports
5. Superintendents of asylums may attend eastern meetings.

STOCKTON ASYLUM.

6. Appointment of directors.
7. Their term of office.
8. Vacancy in board of directors.
9. Government of asylum at Stockton vested in directors.
10. Powers and duties of directors.
11. Warrants for support, how drawn.
12. Directors must contract for supplies.
13. Compensation of directors; not to be interested in contracts.
14. Superintendent, his qualifications.
15. His term of office.
16. His powers and duties.
17. Estimate of expenses.
18. Superintendent's salary.
19. His official bond.
20. Assistant physicians' qualifications.
21. Their term of office.
22. Their powers and duties.
23. When to act as superintendent.
24. Their salaries.
25. Treasurer not to be a director.
26. His term of office.
27. To be secretary; duties.
28. His salary.
29. His official bond.
30. All salaries paid monthly.
31. Bonds to be approved by directors.
32. Physicians must reside in asylum.
33. Must not engage in private practice.

NAPA ASYLUM.

34. Establishment of Napa asylum.
35. Appointment of trustees.
36. Organization of board.
37. Board of directors for construction of asylum to vacate office.
38. To transfer effects to trustees.
39. Trustees to complete asylum.
40. Not to be interested in contracts.
41. Corporate powers, general powers and duties.

42. Resident and assistant physicians, appointment, qualifications, salaries and residence.
43. Treasurer, bond, duties, shall act as secretary.
44. Trustees, compensation of.
45. Resident physician, his powers and duties.
46. Reports to be made monthly.
47. Pay-roll to be made monthly.
48. Bills, how audited and paid.
49. Treasurer to report.
50. Treasurer's accounts to be audited.
51. Liquor not to be sold near Napa.
52. Illegal acts of officers, how prosecuted.

ADMISSION AND DISCHARGE.

53. Who may be admitted.
54. Arrest of insane.
55. Subpoena of witnesses.
56. Physicians to attend examination.
57. Witnesses to appear and answer.
58. Physicians to make personal examination.
59. Physicians' certificate.
60. Certificate in form prescribed.
61. Order for commitment; filed with county clerk.
62. Commitment to officer of asylum.
63. Money found on insane persons, how disposed of.
64. Idiocy and delirium tremens, cases of, not admitted to Stockton.
65. Expenses of delivery, how paid.
66. Physicians' fees.
67. Examination for admission, physicians' certificate and fees, commitment, expenses of.
68. Idiocy and delirium tremens, cases of not admitted to Napa.
69. Support, private patients liable for.
70. Support, relations of indigent insane liable for.
71. Bonds, breach of how prosecuted.
72. Unexpended moneys refunded.
73. Money found on insane persons how disposed of.
74. Contingent fund for Napa asylum.
75. Removal of patient by friends.
76. Non-residents temporarily supported.

- 77. Transfer of patients.
- 78. Discharge upon recovery.
- 79. Unexpended money returned.

CRIMINAL INSANE.

- 80. Non-liability of insane to law.
- 81. Examination during trial.
- 82. Trial of insanity, order of.
- 83. Verdict of jury and proceedings thereon.
- 84. Bail, exoneration of, on commitment.

- 85. Criminal becoming sane returned to custody.
- 86. Expenses, how borne.
- 87. Insane convicts transferred to asylum, and becoming sane returned to custody.
- 88. Insane convicts received in asylum.
- 89. Judgment of death, trial of insanity after.
- 90. Duties of district attorney in such cases.
- 91. Certificate of inquisition filed.
- 92. Stay of execution until recovery.

1. The number and designation of the civil executive officers are as follows: * * * * five directors for the insane asylum at Stockton; five directors for the insane asylum at Napa; a medical superintendent of the insane asylum at Stockton; two assistant physicians of the insane asylum at Stockton; a resident physician of the insane asylum at Napa; one first assistant physician of the insane asylum at Napa; *provided*, when the number of patients shall increase to six hundred, the trustees may elect one additional second assistant physician, with the same pay and emoluments as the first assistant physician; a treasurer of the insane asylum at Stockton; a treasurer of the insane asylum at Napa; * * * *

2. All officers, boards of officers, commissioners, trustees, regents, and directors, required by law to make reports to the governor or legislature, * * * must send such reports to the governor before the first day of October, in the year eighteen hundred and eighty, and in every second year thereafter.

3. There must be printed * * * of the report of the directors, resident physician, visiting physicians of the insane asylum, twenty-five hundred copies; * * *

4. The reports must be delivered by the superintendent of state printing, as follows: * * * to the officers of each of the insane asylums, five hundred copies of their report.

5. The superintendent of the state insane asylum, at Stockton, or one of his assistants, may attend the annual meetings of the superintendents of the American Institutions for the Insane, and the expenses, not to exceed four hundred dollars per annum, must be audited and allowed by the board of exam-

Hittell's Codes
of 1878, § 343.
Directors of.

§ 332.
Officers when
to report.

§ 334.
Copies of re-
port to be
printed.

§ 335.
Distribution
of reports.

Act of 1878,
p. 787.
Superintend-
ents to attend
annual meet-
ings.

iners, and paid out of the state treasury. The resident physician of the Napa state asylum for the insane, or one of his assistants, may also attend such annual meetings, and the expenses, not to exceed four hundred dollars per annum, shall also be audited by the board of examiners, and paid out of the state treasury; *provided*, that the medical superintendent, or one of his assistants, of the Stockton asylum, may attend said meeting in the year eighteen hundred and seventy-eight, and the resident physician, or one of his assistants, of the Napa asylum may attend said meeting in the year eighteen hundred and seventy-nine, and thereafter the said physicians shall attend said meeting alternately.

6. The following executive officers are appointed by the governor, with the consent of the senate: * * * § 368.
by whom appointed.

* * 2. The directors of the insane asylum.

7. The officers mentioned in the * * * second (preceding) subdivision for the term of four years, * * * § 369.
Term of office.

8. Any person appointed to fill a vacancy in the board of directors of the insane asylum holds only for the § 1003.
Vacancy in board of directors. unexpired term of his predecessor.

9. The insane asylum, located at Stockton, is under the management and control of a board of directors, § 2136.
Location and control of asylum. consisting of five persons appointed and holding their offices as provided in tit. 1, part 3, of this code. (See ante, pl. 1, 6.)

10. The powers and duties of the board of directors of the insane asylum are as follows:

(1) To make by-laws, not inconsistent with the § 2137, as amended 1883,
ch. 61. Duties of directors. laws of the state, for their own government, and the government of the asylum.

(2) To hold stated meetings at the asylum for the transaction of business on the first Monday in each month.

(3) To keep a record of their proceedings, open at all times to the inspection of any citizen.

(4) To elect a medical superintendent, two assistant physicians, and a treasurer.

(5) To provide on the asylum grounds suitable apartments, furniture, provisions, and lights for the medical superintendent and his family; and to allow a sum not exceeding one hundred and fifty dollars per month to each of the assistant physicians for the subsistence of themselves and their families.

(6) To make diligent inquiry into the departments of labor and expense, the condition of the asylum, and its property.

(7) To report to the governor a statement of the receipts and expenditures, the condition of the asylum, the number of patients under treatment, and of such other matters touching the duties of the board as is advisable.

11. If the board approve the estimates made under the provisions of section 2153 [pl. 17], it must notify the controller of state, who must draw his warrant for the amount estimated in three equal sums out of any moneys in the state treasury appropriated for the use of the asylum.

§ 2138.
Moneys for
support, how
drawn.

12. Upon the receipt of each report provided for in subdivision 5 of section 2152 [pl. 16], the board of directors must advertise for contracts for furnishing the supplies therein specified, for three successive weeks, in one newspaper in each of the cities of Stockton, Sacramento, and San Francisco. The contract must be awarded to the lowest bidder, upon his giving satisfactory security for the faithful performance of the same.

§ 2139.
Directors to
contract for
supplies.

13. The directors shall not be directly or indirectly interested in any contract or contracts for supplies furnished said asylum, but shall receive, as their compensation, the sum of ten dollars per day for their services in attending monthly or called meetings of said board, and such mileage as is provided by law for members of the legislature of this state, payable out of any moneys set apart by law for the use and benefit of said asylum, as other bills and accounts against the asylum are paid; *provided*, the amount so received as per diem compensation for services shall not exceed the sum of one hundred and forty dollars per year to each director.

§ 2140,
as amended
by act 1878,
p. 45.
Compensation
of directors.

14. The medical superintendent must be a graduate in medicine, and must have practiced his profession five years after the date of his diploma.

§ 2150.
Medical su-
perintendent.

15. His term of office is four years from and after his election.

§ 2151. Term of office. election.

16. He is the chief executive officer of the asylum, with powers and duties as follows:

§ 2152. Powers.

(1.) To control the patients, prescribe the treatment, and

prescribe and enforce the sanitary regulations of the asylum.

(2.) With the consent of the board of directors, to fix the number and compensation of, and appoint, control, and remove the attendants and assistants.

(3.) To prescribe and enforce the performance of the duties of the attendants and assistants.

(4.) To prescribe and enforce the performance of the duties of the assistant physicians.

(5.) To ascertain and report to the board of directors the amount, character, and quality of provisions, fuel, and clothing required for the six months ending on the first of May and November in each year.

(6.) With the consent of the board of directors to make any expenditure necessary in the performance of his duties, except for provisions, fuel and clothing.

(7.) To receive and pay to the treasurer all moneys found upon insane persons.

(8.) To keep a daily record of his official acts in the mode prescribed by the by-laws.

(9.) To make up his annual accounts to the first of July in each year, and as soon thereafter as possible to report a statement thereof, and of the general condition of the asylum, to the board of directors.

17. He must estimate, quarterly, in advance, the probable expenses of the asylum, and submit such estimate to the directors, at their stated meetings, for their consideration and approval.

§ 2153. Supt. must estimate expenses and report to directors.

18. The annual salary of the medical superintendent is thirty-five hundred dollars.

§ 2154. Salary of med. supt.

19. He must execute an official bond in the sum of twenty thousand dollars.

§ 2155. Bond of med. supt.

20. The assistant physicians must be graduates in medicine.

§ 2165. Assist. phys.

21. Their term of office is four years from and after their appointment.

§ 2166. Term of office.

22. They must perform the duties and exercise the powers prescribed by the medical superintendent or the by-laws.

§ 2167. Assist. phys. duties

23. During the absence or disability of the medical superin-

§ 2168. Sen. as. tendent the assistant longest in commission must
phys. when to perform his duties and exercise his powers.
act as supt.

24. The annual salary of each assistant physician is twenty-
§ 2169. Salaries of assist. phys. five hundred dollars.

25. No member of the board of directors is eligible to the
§ 2179. Treas. office of treasurer.

26. The treasurer holds his office at the pleasure of the
§ 2180. Treas. board of directors.
tenure of office.

27. It is the duty of the treasurer :

§ 2181. (1) To act as secretary of the board of directors.
Treas., gen'l duties. (2) To keep the accounts of the board and of the receipts and expenditures.

(3) To report on the first Monday in each month to the state board of examiners a statement under oath of the expenses of the preceding month.

(4) To perform such other duties as may be required of him by the by-laws or board of directors.

28. The annual salary of the treasurer is six hundred
§ 2182. Treas., salary. dollars.

29. He must execute an official bond in the sum of twenty
§ 2183. Treas., bond. thousand dollars.

30. The salaries and compensation fixed by the provisions
§ 2193. Salaries, how paid. of this chapter must be paid monthly out of the moneys appropriated for the support of the asylum.

31. The official bonds required by the provisions of this
§ 2194. Approval and filing of official bonds. chapter must be approved by the board of directors, and filed and recorded in the office of the secretary of state.

32. The medical superintendent and each assistant physician
§ 2195. Residence of phys. must reside on the asylum grounds.

33. The officers mentioned in the preceding section must
§ 2196. Business of physicians. not engage in the private practice of medicine, but must devote their whole time to the performance of their duties, unless granted leave of absence by the board of directors.

34. An act to provide further accommodation for the insane
Act of 1872, p. 677, superseded by act of Mar. 6, 1876. of the state of California, and to provide a special fund therefor. [This act provides for the establishment of a new asylum for the insane ; for the

appointment of commissioners to select a site, and for the construction and management of the institution. The site selected was Napa, and the asylum has been built there. Its management, as provided by this act, has, however, been superseded, by the provisions of the act of March 6, 1876, given below. By section 22 of that act, as will be seen by reference to it, this act was continued in force only for a special purpose. Under the circumstances, this act is omitted, except its title and reference as above.

35. Within ten days after the passage of this act the governor shall appoint five trustees to manage the affairs of the Napa state asylum for the insane, three of whom shall be residents of Napa county; and he shall designate at the time of the appointment the respective terms of office of said trustees, under the following classification, to wit: three of said trustees shall serve for two years, and two of said trustees shall serve for four years from the time of their appointment. Their successors shall be appointed by the governor, and shall hold their offices for the term of four years and until their successors are appointed and qualified. In case a vacancy occurring in said board the governor shall appoint, in manner aforesaid, to fill the unexpired term.

Act of 1876,
p. 133, § 1.
Governor
to appoint five
trustees.

36. The trustees provided for in the preceding section shall qualify by taking the usual oath of office, and shall, within ten days after such qualification, organize themselves into a board by the election of one of their number as president, and the secretary and treasurer hereinafter provided for, and, as soon as such organization has been perfected, they shall notify the same to the "board of directors" created under "An act to provide further accommodation for the insane of the state of California, and to provide a special fund therefor," approved March 27, 1872, by serving a notice of that fact on the secretary or president of said board of directors.

Ibid § 2.
Trustees to
organize.

37. As soon as the said "board of directors" of the Napa state asylum for the insane shall receive the notification referred to in the preceding section of this act, their offices, and also those of all persons receiving appointments by, through, or under them, shall become vacant, and their functions as a board and as directors, officers, and employes shall cease to exist.

Ibid § 3.
Board of di-
rectors ap-
pointed by act
Mar. 27. 1872
(see pl. 34) su-
perseded.

38. Upon receiving the said notification, it shall be the duty of the said "board of directors," their secretary and treasurer, medical superintendent, officers and employes, to prepare a list of all books, papers, moneys, property and effects of every kind and nature whatever belonging to the Napa state asylum for the insane, or in their possession, or under their control, and deliver the said list, together with the articles enumerated therein, upon the order of the president of the board of trustees created by this act, taking duplicate receipts therefor, and filing one with the state board of examiners.

*Ibid § 4.
Directors to
turn over
books and
property.*

39. The trustees created under this act shall, as soon as funds are provided by the legislature, cause the buildings of the Napa state asylum for the insane to be completed, and the grounds and premises to be improved, under plans now existing, as soon as practicable; *provided*, that such alterations as will reduce the cost of construction of the said asylum may be made by said board of trustees; but no contracts must be entered into or liabilities incurred beyond the amount appropriated by the legislature.

*Ibid § 5.
Trustees to
complete
buildings.*

40. The trustees and other officers shall have no interest, direct or indirect, in the furnishing of any building materials, or in any contract for the same, or in any contract for labor in finishing said buildings, or improving said grounds or premises, nor in any contract for labor, material, or supplies for the maintenance thereof.

*Ibid § 6.
Trustees not
to be interest-
ed parties.*

41. The board of trustees created under this act shall be known by the name and style of the "Board of Trustees of the Napa State Asylum for the Insane," and by that name they and their successors shall be known in law, may receive, take, and hold property, both real and personal, in trust for the state, and for the use and benefit of said asylum. They shall have power to govern, manage, and administer the affairs of said asylum, and make and adopt by-laws for their government and the government of the asylum. They shall appoint all officers and employes of said asylum, prescribe their duties, and remove them when, in their judgment, the good of the public service requires it. They shall cause to be kept a full and correct record of their proceedings, which shall be open at all times to the inspection

*Ibid § 7.
Powers and
duties of trust-
tees.*

of any citizen desiring to examine the same. They shall hold stated meetings at the asylum monthly, and a majority of the board shall constitute a quorum for the transaction of business. They shall keep themselves constantly advised of all items of labor and expense, and the condition of the buildings and property of the asylum. They shall submit to the governor biennially, on or before the first day of September next preceding the regular session of the legislature, a report showing the receipts and expenditures, the general condition of the asylum, the number of patients under treatment during the two preceding years, and such other matters touching the general affairs of the asylum as they may deem advisable.

42. The board of trustees shall appoint a resident physician and an assistant physician, each of whom shall hold office for four years, and until his successor is elected and qualified. The salary of the resident physician shall be three thousand dollars per annum, and of the assistant physician two thousand dollars per annum; and each of them and their families shall be furnished room, household furniture, provisions, fuel, and lights, at and from the supplies of the asylum. Both the resident and assistant physicians shall reside at the asylum; shall be well educated and experienced physicians, regular graduates in medicine, and shall have practiced at least five years from the date of their respective diplomas, and shall not engage in outside practice. Their duties not specified in this act shall be fixed and prescribed in the by-laws of the board of trustees.

*Ibid § 8.
Trustees to
appoint resi-
dent and as-
sistant phys-
icians. Sala-
ries and
qualification
of physicians.*

43. The board of trustees shall elect a treasurer, who shall not be of their number, and who shall hold office for two years, and until his successor is elected and qualified. The treasurer shall qualify by taking the usual oath of office, and shall give bond, with good and sufficient sureties, to be approved by the board, in a sum not less than thirty thousand dollars, payable to the people of the state of California, and conditioned for the faithful performance of his duties according to law, and for the delivery to his successor of all books, papers, vouchers, moneys, and effects held by him in virtue of his office. The board of trustees may increase the amount of the bonds of the treasurer,

*Ibid § 9.
Trustees
to elect
treasurer.*

and may require additional security at any time; and they may remove him. The treasurer shall act as secretary of the board of trustees, and have charge of the books and accounts of the asylum, and all matters of finance relating thereto. He shall keep accurate account of all expenditures, under appropriate headings, taking vouchers for all moneys paid out, and make a detailed statement under oath each month to the state board of examiners of the expenses of the preceding month, and shall perform such other duties as the board may prescribe. His salary shall be fixed by the board of trustees, not to exceed six hundred dollars per annum.

44. Each trustee shall receive as his compensation ten dollars for each meeting of the board at which he shall be present, payable out of any moneys appropriated to the use of the asylum; *provided*, that the sum paid to the said trustees shall not exceed one hundred and thirty dollars per annum; *and provided further*, that any trustee whose residence is out of the county in which said asylum is situated shall be allowed, for traveling expenses, mileage at the rate of ten cents per mile for the distance necessarily traveled in attending the monthly meeting of the board.

45. The resident physician shall be the executive officer of the asylum, under the regulations and by-laws of the trustees. He shall have control of the patients, prescribe or direct their treatment, adopt sanitary measures for their welfare, and discharge such as, in his opinion, have permanently recovered their reason. He shall maintain discipline among the subordinate officers and employes, and enforce obedience to the laws, rules, and regulations adopted for the government of the institution, and is empowered to discharge any employe or attendant for violation of the laws or rules of the asylum. He shall estimate quarterly, in advance, the probable expenses of the asylum, and submit the same to the board of trustees, at their last regular meeting preceding the commencement of such quarter, for their approval. And the controller of state is hereby authorized and directed to draw his warrants for the amount of such estimate, approved by the trustees, as soon as the same shall have been approved by the state board of examiners, in three equal sums, in favor of the board of trus-

Ibid § 10.
Compensation
and mileage
of trustees.

Ibid § 11.
Resident phy-
sician to be
executive
officer.

Powers.

Warrants.

tees. And the state treasurer is authorized and directed to pay the same out of any moneys appropriated by law for the use and benefit of said asylum. He shall estimate and report to the trustees the amount, kind, and quality of furniture and household furnishing goods, provisions, fuel, forage, clothing, and other materials required for the six months ending on the first day of May and November of each year; and the trustees shall then advertise for four successive weeks for con- Contracts. tracts for furnishing said supplies. All contracts shall be awarded to the lowest bidder or bidders, upon their giving to the board of trustees satisfactory security for the faithful performance of the same. Necessary expenditures, Expenses. other than those for provisions, fuel, forage, clothing, and furniture, and household furnishing goods, may be made by the resident physician, subject to the approval of the board.

46. The resident physician shall cause accurate and careful accounts to be kept of the daily expenditures of all articles of stores and property placed in his charge, Ibid § 12. Monthly report of physician. and shall, at the end of each month, submit the same to the board of trustees for their inspection; and on each daily report shall be shown the number of persons fed and lodged in the asylum, whether as officers and their families, employes, or patients. A monthly report of the same tenor shall also be made to the trustees.

47. At the end of each month the resident physician shall cause a pay-roll to be made, which shall show the name of each person employed in or about the asy- Ibid § 13. Pay-roll. lum, giving the capacity in which each is employed, the time employed, the rate of salary or wages, and the amount due each. Upon receiving this roll, sworn to and certified by the resident physician and approved by the president of the board, the treasurer shall pay the persons named on the roll the sums due them, taking their receipts on the roll for the moneys received, which roll, so receipted, shall be his voucher.

48. All bills against the asylum shall be presented to the treasurer, and be by him submitted to the board of trustees at their next regular meeting after presentation, and shall be by them audited and approved Ibid § 14. Bills, how audited and paid. before they are paid; and no money shall be paid out by the treasurer, except as provided in the last section, unless ordered by the board, and the order entered upon their minutes.

49. At every stated meeting of the board the treasurer shall present a clear and detailed statement of all moneys received and paid out by him, with vouchers regularly numbered to show for the payments—the statements to classify all receipts and expenditures under appropriate and intelligible heads. He shall also present his books, and show that they are written up to date, properly posted, and the balance of cash in his hands belonging to the asylum shown.

50. The vouchers, statements, and books of the treasurer shall be examined by the board of trustees at each stated meeting, and if found correct and kept in accordance with the provisions of this act and the by-laws, the president of the board shall give the treasurer a certificate of the fact, and cause a note of it to be made in the minutes of the board. The minutes of each meeting of the board shall be approved by the board and signed by the secretary and president.

51. It shall not be lawful for any person to keep any saloon or bar, or to sell or offer for sale any spirituous or malt liquors, within one mile of the asylum building, now in course of construction upon the property in Napa county, deeded to the state of California for the site of the Napa state asylum for the insane; and any person so doing shall be guilty of a misdemeanor, and for each offense shall be punished by a fine not exceeding five hundred dollars (superseded by act of April 3, 1876, § 13,172 infra).

Every person who * * * within one mile of the insane asylum at Napa, * * * sells, gives away, or exposes for sale, any vinous or alcoholic liquor, is guilty of a misdemeanor.

52. An act entitled "An act to provide for the accommodation for the insane of the state of California, and to provide a special fund therefor," approved March 27th, 1872, is hereby continued in force so far as the same gives or creates a right on the part of the people of this state to proceed against the directors and employes mentioned therein, civilly or criminally, for any fraudulent or illegal acts on their part, under the alleged authority of this act; *provided*, that nothing herein shall be so construed

as to repeal the act of March 24th, 1874*, entitled "An act to provide for the construction of the Napa state asylum for the insane, and for other purposes," or any part thereof.

53. No insane person, non-resident of this state, must be received into the asylum unless he became insane within this state.

§ 2199. Admission of non-residents.

54. Whenever it appears by affidavit to the satisfaction of a magistrate of the county, that any person within the county is so far disordered in his mind as to endanger health, person or property, he must issue and deliver to some peace officer for service a warrant, directing that such person be arrested and taken before any judge of a court of record within the county for examination.

§ 2210. Examination for admission.

55. When the person is taken before the judge he must issue subpoenas to two or more witnesses, best acquainted with such insane person, to appear and testify before him at such examination.

§ 2211. Number of witnesses.

56. The judge must also issue subpoenas for at least two graduates of medicine to appear and attend such examination.

§ 2212. Physicians to attend.

57. At the examination the persons subpoenaed must appear and answer all questions pertinent to the matter under investigation.

§ 2213. Duty of witnesses.

58. The physicians must hear such testimony, and must make a personal examination of the alleged insane person.

§ 2214. Duty of physicians.

59. The physicians, after hearing the testimony and making the examination, must, if they believe such person to be dangerously insane, make a certificate, under their hand, showing as near as possible:

§ 2215. Certificate of physicians.

(1) That such person is so far disordered in his mind as to endanger health, person, or property.

(2) The premonitory symptoms, apparent cause or class of insanity, the duration and condition of the disease.

(3) The nativity, age, residence, occupation, and previous habits of the person.

(4) The place from whence the person came, the length of his residence in this state.

* This was merely an appropriation of \$600,000 required to complete the asylum.

60. The certificate must be made in the form prescribed by, and, if they can be had, upon blanks furnished by the medical superintendent of the asylum.

§ 2216.
Certificate.

61. The judge, after such examination and certificate made, if he believes the person so far disordered in his mind as to endanger health, person, or property, must make an order that he be confined in the insane asylum. A copy of such order shall be filed with and recorded by the county clerk of the county.

§ 2217, as
amended by
act '81, ch. 9.
Commitment:
duty of county
clerk relative
to.

The clerk shall also keep in convenient form, an index-book, showing the name, age, and sex of each person so ordered to be confined in the insane asylum, with the date of the order, and the name of the insane asylum in which the person is ordered to be confined; no fees shall be charged by the clerk for performing any of the duties provided for by this section.

62. The insane person, together with the order of the judge and certificate of the physicians, must be delivered to the sheriff of the county, and by him must be delivered to the officer in charge of the insane asylum.

§ 2218. Sheriff
to deliver
persons.

63. Any moneys found on the person of an insane person at the time of arrest must be certified to by the judge and sent with such person to the asylum, there to be delivered to the medical superintendent, who must deliver the same to the treasurer. If the sum exceeds one hundred dollars, the excess must be applied to the payment of the expenses of such person while in the asylum; if the sum is one hundred dollars or less, it must be kept and delivered to the person when discharged, or applied to the payment of funeral expenses if the person dies at the asylum.

§ 2219.
Money found
on insane
person.

64. No case of idiocy or imbecility, or simple feebleness of mind, must be maintained at, nor must any case of delirium tremens be admitted into the asylum.

§ 2220.
Certain insane
not admitted
to.

65. Persons delivering insane persons at the asylums must receive all expenses necessarily incurred in their transportation, and also a just and reasonable compensation for their own services, the amount of the expenses and compensation in each case to be audited and allowed by the board of examiners, and paid out of any moneys in the state treasury appropriated for that purpose. The necessary expenses of an assistant, when more than

§ 2221,
as amended
1880, p. 129.
Compensation
for delivery to
asylum.

one person is required to convey such insane person, shall also be allowed; *provided*, however, that the person in charge of such insane person shall certify, under oath, the urgent necessity of such assistance. No compensation, except as herein provided, shall be received or allowed for delivering insane persons at the asylums.

66. The physicians attending each examination of an insane person are allowed five dollars each, to be paid by the county treasurer of the county where the examination was had on the order of the board of supervisors.

§ 2222.
Fees of physicians.

67. The county judge of any county in this state and the probate judge of the city and county of San Francisco, shall, upon application under oath, setting forth that a person by reason of insanity is dangerous to be at large, cause such person to be brought before him, and he shall summon to appear at the same time and place two or more witnesses who well knew the accused during the time of the alleged insanity, who shall testify under oath as to conversation, manners, and general conduct upon which said charge of insanity is based; and shall, also, cause to appear before him, at the same time and place, two physicians, who shall be regular graduates in medicine, before whom the judge shall examine the charge; and if, after a careful hearing of the case and a personal examination of the alleged insane person, said physicians shall certify on oath that the person examined is insane, and the case is of a recent or curable character, or that the said insane person is of a homicidal, suicidal, or incendiary disposition, or that from any other violent symptoms the said insane person would be dangerous to his or her own life, or the lives or property of the community in which he or she may live; and if said physicians shall also certify to the name, age, nativity, residence, occupation, length of time in this state, state last from, previous habits, premonitory symptoms, apparent cause and class of insanity, duration of the disease and present condition as nearly as can be ascertained by inquiry and examination; and if the judge shall be satisfied that the facts revealed in the examination establish the existence of the insanity of the person accused, and that it is of a recent or curable nature, or of a homicidal, suicidal, or incendiary character, or that from the violence of the symptoms the

Act 1876, p.
133, § 17.
Commitment
of insane persons.

said insane person would be dangerous to his or her own life, or to the lives or property of others, if at large, he shall direct the sheriff of the county, or some suitable person, to convey to and place in charge of the officers of the insane asylum of this state to which the order is directed, such insane person, and shall transmit a copy of the complaint and commitment, and physicians' certificate, which shall always be in the form as furnished to the courts by the resident physician of said asylum; and the person taking such insane person to the insane asylum shall be allowed therefor the same fees as are allowed by law to the sheriff in such cases, to be paid in like manner. And the physicians attending the examination aforesaid shall be allowed, by the board of supervisors of the county in which the examination is had, five dollars each, unless they are otherwise paid.

68. No case of idiocy, imbecility, harmless, chronic, mental unsoundness, or acute mania a potu, shall be committed to this [Napa] asylum; and whenever in the opinion of the resident physician, after a careful examination of the case of any person committed, it shall be satisfactorily ascertained by him that the party had been unlawfully committed, and that he or she comes under the rule of exemptions provided for in this section, he shall have the authority to discharge such person so unlawfully committed, and return him or her to the county from which committed, at the expense of such county.

69. The judge shall inquire into the ability of insane persons committed by him to the asylum, to bear the actual charges and expenses for the time that such person may remain in the asylum. In case an insane person committed to the asylum under the provisions of this act shall be possessed of real or personal property sufficient to pay such charges and expenses, the judge shall appoint a guardian for such person, who shall be subject to all the provisions of the general laws of this state in relation to guardians, as far as the same are applicable; and when there is not sufficient money in the hands of the guardian, the judge may order a sale of the property of such insane person, or so much thereof as may be necessary, and from the proceeds of such sale the guardian shall pay to the board of

Ibid § 18.
Idiots and im-
beciles.

Ibid § 19,
as amended by
act of 1883,
ch. 54.
Patients to
pay their ex-
penses when
possessed of
means.

trustees the sum fixed upon by them each month, quarterly in advance, for the maintenance of such ward; and he also shall, out of the proceeds of such sale, or such other funds as he may have belonging to such ward, pay for such clothing as the resident physician shall, from time to time, furnish such insane person; and he shall give bond, with good and sufficient sureties, payable to the board of trustees, and approved by the judge, for the faithful performance of the duties required of him by this act, as long as the property of his insane ward is sufficient for the purpose.

70. Indigent insane persons having kindred of degree of husband or wife, father, mother, or children, living within this state, of sufficient ability, who are otherwise liable, said kindred shall support such indigent insane person to the extent prescribed for paying patients. The board of trustees shall furnish such blank bonds as are required by this section, to the several judges in this state.

§ 19.
Liability of
relatives for
support of
indigent in-
sane.

71. A breach of any bond provided for in this act may be prosecuted in the superior court of any county in this state in which any one of the obligors may reside, and the same shall be prosecuted by the district attorney in the county in which the action shall be brought, and shall be conducted throughout, and the judgment enforced, as in a civil action for the recovery of a debt.

§ 19.
Prosecution
of breach of
bond.

72. Should there remain in the hands of the board of trustees or their treasurer, at the time any insane person is discharged, any money unexpended, so paid by the guardian or kindred, the same shall be refunded; *provided*, that the board of trustees shall not be required to refund any money for a fraction of a month; but upon the death of any insane person, after paying the ordinary burial expenses, the remainder of any moneys received from the guardian, or on deposit with the board of trustees or their treasurer, shall be refunded to the person or persons thereto entitled, on demand.

§ 19.
Refunding of
money.

73. Any moneys found on the person of any insane person at the time of arrest shall be certified to by the judge, and sent with such person to the asylum, there to be delivered to the treasurer, to be applied to payment of the expenses of such person while in the asylum; but upon the recovery of such insane person, all sums remain-

§ 19.
Moneys found
on person of
lunatic.

ing after deducting such expenses shall be returned to such person when discharged from the asylum.

74. All moneys belonging to the state, coming into the hands of the board of trustees, other than that appropriated by the state, shall be kept by said trustees, in a separate fund to be known as a contingent fund, and the same shall, by the said trustees, be expended at such times and in such manner as to the said board appears for the best interest of said asylum, and for the improvement thereof, and of the grounds and buildings therewith connected. A full, strict and itemized account of all such receipts and expenditures shall be included in the biennial report of said board of trustees.

75. The kindred or friends of an inmate of the asylum may receive such inmate therefrom, on their giving satisfactory evidence to the judge of the court issuing the commitment, that they or any of them are capable and suited to take care of, and give proper care to such insane person, and give protection against any of his acts as an insane person. If such satisfactory evidence appear to the judge, he may issue an order, directed to the trustees of the asylum, for the removal of such person; but the trustees shall reject all other orders or applications for the release or removal of any insane person, except the order of a court or judge on proceeding in habeas corpus; and if, after such removal, it is brought to the knowledge of the judge, by verified statement, that the person thus removed is not cared for properly, or is dangerous to persons or property, by reason of such want of care, he may order such person returned to the asylum.

76. Non-residents of this state, conveyed or coming herein while insane, shall not be committed to or supported in the Napa state asylum for the insane, but this prohibition shall not prevent the commitment to and temporary care in said asylum of persons stricken with insanity while traveling or temporarily sojourning in the state; or sailors attacked with insanity upon the high seas, and first arriving thereafter in some port within this state.

77. Until the Napa state asylum for insane shall be occupied to its entire capacity, the judges who are authorized herein to commit insane persons may order all persons thereafter by them duly examined and de-

§ 19.
Contingent
fund for Napa
Asylum.
Account.

§ 19.
Discharge
from asylum
to custody of
friends.

Ibid § 20.
Non-residents
and tempo-
rary patients.

Ibid § 21.
Transfer of
patients.

clared insane to the Napa state asylum; but the county judges of this state, or the probate judge of the city and county of San Francisco, may order the transfer of any insane person committed from their respective counties from one insane asylum to the other, upon the joint recommendation and consent of the resident physicians of each, the cost of such transfer to be paid by the guardian or friends of the patient transferred.

78. Insane persons received in the asylum must, upon recovery be discharged therefrom.

§ 2197. Discharge of patients.

79. If at the time of the discharge of a person from the asylum, or after the death and burial of any person therein confined, there remains in the custody of the directors or treasurer any moneys paid for the support or maintenance of such person, it must, upon demand, be repaid.

§ 2300. Disposition of moneys expended on death or discharge.

80. A person cannot be tried, adjudged to punishment or punished for a public offense, while he is insane.

§ 14,367. Non-liability.

81. When an action is called for trial, or at any time during the trial, or when the defendant is brought up for judgment on conviction, if a doubt arise as to the sanity of the defendant, the court must order the question as to his sanity to be submitted to a jury; and the trial or the pronouncing of the judgment must be suspended until the question is determined by their verdict, and the trial jury may be discharged or retained, according to the discretion of the court, during the pendency of the issue of insanity.

§ 14,368, as amended April 9, 1880: Doubt as to sanity of def't, how determined.

82. The trial of the question of insanity must proceed in the following order:

(1) The counsel for the defendant must open the case, and offer evidence in support of the allegation of insanity.

§ 14,369. Trial of question of insanity.

(2) The counsel for the people may then open their case and offer evidence in support thereof.

(3) The parties may then respectively offer rebutting testimony only, unless the court, for good reason in furtherance of justice, permit them to offer evidence upon their original cause.

(4) When the evidence is concluded, unless the case is submitted to the jury, on either or both sides without argument,

the counsel for the people must commence, and the defendant or his counsel may conclude the argument to the jury.

(5) If the indictment be for an offense punishable with death, two counsel on each side may argue the cause to the jury, in which case they must do so alternately. In other cases the argument may be restricted to one counsel on each side.

(6) The court must then charge the jury, stating to them all matters of law necessary for their information in giving their verdict.

83. If the jury find the defendant sane, the trial must proceed, or judgment be pronounced, as the case may be. If the jury find the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court must order that he be in the meantime committed by the sheriff to the state insane asylum, and that upon his becoming sane he be re-delivered to the sheriff.

§ 14,370,
as amended
April 9, 1880.
Verdict of jury
as to sanity
and proceed-
ings thereon.

84. The commitment of the defendant, as mentioned in the last section, exonerates his bail, or entitles a person, authorized to receive the property of the defendant, to a return of any money he may have deposited instead of bail.

§ 14,371.
If defendant
committed, it
exonerates
bail.

85. If the defendant is received into the asylum, he must be detained there until he becomes sane. When he becomes sane, the superintendent must give notice of that fact to the sheriff and district attorney of the county. The sheriff must thereupon, without delay, bring the defendant from the asylum, and place him in proper custody until he is brought to trial or judgment, as the case may be, or is legally discharged.

§ 14,372.
Defendant to
be detained in
asylum until
sane.

86. The expenses of sending the defendant to the asylum, of keeping him there, and of bringing him back, are in the first instance chargeable to the county in which the indictment was found, or information filed; but the county may recover them from the estate of the defendant, if he have any, or from a relative, town, city, or county bound to provide for and maintain him elsewhere.

§ 14,373,
as amended
April 9, 1880.
Expenses of
sending, etc.,
defendant to
asylum,
where
chargeable.

87. When the physician, warden, and captain of the yard of the state prison, after an examination, are of opinion that any

prisoner is insane, they must certify the fact under oath to the governor, who may, in his discretion, order the removal of such prisoner to the insane asylum. As soon as the authorities of the asylum ascertain that such person is not insane, they must immediately notify the warden of that fact, and thereupon the warden must cause such prisoner to be at once returned to the prison, if his term of imprisonment has not expired.

§ 14,582.
Disposition of
insane
prisoners.

88. Insane convicts must be received into the insane asylum, and returned to the state prison again, as provided in section 1230 of the Penal Code. (Section 1230 here referred to is an error, should be section 14,582.)

§ 2198.
Insane con-
victs.

89. If, after judgment of death, there is good reason to suppose that the defendant has become insane, the sheriff of the county, with the concurrence of the judge of the court by which the judgment was rendered, may summon from the list of jurors selected by the supervisors for the year a jury of twelve persons to inquire into the supposed insanity, and must give immediate notice thereof to the district attorney of the county.

§ 14,221.
If reason to
suppose def't
insane, man-
ner of
investigation.

90. The district attorney must attend the inquisition, and may produce witnesses before the jury, for which purpose he may issue process in the same manner as for witnesses to attend before the grand jury, and disobedience thereto may be punished in like manner as disobedience to process issued by the court.

§ 14,222.
Duty of dis-
trict attorney
upon inquisi-
tion.

91. A certificate of the inquisition must be signed by the jurors and the sheriff, and filed with the clerk of the court in which the conviction was had.

§ 14,223.
Certificate
filed.

92. If it is found by the inquisition that the defendant is sane, the sheriff must execute the judgment; but if it is found that he is insane, the sheriff must suspend the execution of the judgment until he receives a warrant from the governor or from the judge of the court by which the judgment was rendered directing the execution of the judgment. If the inquisition finds that the defendant is insane, the sheriff must immediately transmit it to the governor, who may, when the defendant becomes sane, issue a warrant appointing a day for the execution of the judgment.

§ 14,224.
Proceedings
upon finding
of jury.

COLORADO.

GOVERNMENT OF ASYLUM.

1. Establishment of asylum.
2. Government vested in superintendent and board of commissioners; appointment, term of office, salaries, powers and duties.
3. Salaries and expenses paid by state.
4. Reports to be made and published.
5. Selection of site for asylum.
6. Tax for support of asylum to be levied.

ADMISSION AND DISCHARGE.

7. Examination, and appointment of conservator.

8. Jury trial of insanity.
9. Custody of lunatic, who to have.
10. Arrest, examination and commitment of insane.
11. Notice of inquest to be given; support to be paid for by county.
12. Support of insane, state fund for.
13. Counties reimbursed from state fund.
14. Warrants on treasury, how paid.
15. Support, liability of relatives for.
16. Definition of insanity.
17. Non-liability of insane to law.

1. There is hereby established the Colorado insane asylum,
Act of 1879, p. 67, § 1. for the treatment and cure of such persons as
Establishment of may become insane from any cause.
asylum.

2. The management of said asylum shall be by a superin-
ibid § 2. tendent and a board of three commissioners, who shall,
Management. together, have full control thereof, as hereinafter
provided. The superintendent and board of commissioners
shall be appointed by the governor, and no more than one
of said commissioners shall be appointed from the same judi-
cial district, and the superintendent shall hold his position for
the term of six years; and the commissioners first appointed
shall hold, one for six years, one for four years, and one for
two years, and afterwards each commissioner shall be appointed
for the term of six years; so that one commissioner shall be ap-
pointed and hold for the full term of six years. The superin-

tendent shall give a bond to the state, in the sum of
Superintend- ent to give bond. three thousand dollars, conditioned that he will
honestly and faithfully discharge all of his legal duties accord-
ing to law. The superintendent shall be a regularly gradu-
ated physician, and he shall reside at the asylum. He shall
His salary. receive a salary of two thousand dollars per annum,
payable quarterly. The commissioners shall each receive a

salary of six hundred dollars per annum, payable quarterly; and they shall hold regular meetings at the asylum each quarter for the transaction of the business of the asylum. The superintendent and board of commissioners shall prescribe and publish such rules for the management of the affairs of the asylum and its inmates as experience and observation shall prove beneficial. They shall have power to employ all subordinates necessary to do the business of the asylum. The superintendent shall receive and discharge all persons placed in charge of the asylum under the provisions of this act. The board of commissioners shall not be required to act as such until the asylum is open for the reception of inmates, excepting as hereinafter specified. The superintendent shall be superintendent of construction of the asylum building, and shall have care of the grounds and everything belonging to the asylum, and he shall enter upon his duties as soon as he is appointed.

Rules for internal government.

Employees.

Superintendent to receive and discharge all patients.

3. The salaries of all officers, employees, the expenses of the asylum, and all bills incurred in regard thereto authorized by law, shall be audited by the state auditor quarterly, and warrants therefor drawn upon the state treasurer, to be paid out of the insane fund.

Ibid § 3. Salaries, how paid.

4. The superintendent and board of commissioners shall make a report to the governor on or before the first day of December in each and every year, showing the condition of the asylum financially, the number, age, sex, occupation, residence, treatment and state of reform of all persons admitted from the date of the opening of the asylum, or from the date of the last report, together with such other facts and opinions as their experience and observation may prove and may be deemed of interest to the public; and the governor shall cause said reports to be published, and he shall present them to the next general assembly.

Ibid § 4. Report to be made to governor.

Governor to publish report.

5. It is hereby made the duty of the governor to appoint the superintendent and board of commissioners of the Colorado insane asylum immediately upon the passage of this act, and it shall thereupon become the duty of the said commissioners to select a site for the said asylum at or near the city of Pueblo, in the county of Pueblo, and state of Colorado, and such site

Ibid § 5. Governor to appoint the superintendent and commissioners. Selection of a site.

to be not less than forty acres; *provided*, that the site for said asylum shall be donated to the state by the citizens of Pueblo; and they are hereby authorized to receive gifts or otherwise of lands for the use and benefit of the state in reference to the site and building for said asylum. The site shall be susceptible of irrigation, and not too remote from good water, of sufficient quality and quantity to furnish a supply for all necessary use. Upon selecting such site, the said commissioners shall report the facts as to the same to the governor, and he shall cause the title to be made to the state with as little delay as possible. The said commission may lease or build or purchase a temporary building for immediate use. The commissioners shall receive for their services herein named the sum of one hundred dollars each, and mileage of twenty cents for each mile traveled in the selection of such site. As soon as the site shall be selected and title made to the state, the superintendent shall cause proper designs and plans of the grounds and buildings to be made, and shall proceed to lease or construct temporary buildings, which shall be opened for use as speedily as practicable.

6. There shall be levied and assessed upon all taxable property in the state, real and personal, for the creation and support of such asylum as herein provided, a tax of one-fifth (1-5) of a mill on each and every dollar to be known as the insane tax; such revenue to be assessed and collected in like manner with other revenues of the state.

7. Whenever any reputable person shall file a complaint, duly verified in the county court, alleging that any person is a lunatic or insane person, and that said lunatic or insane person has personal or real property, and is so insane or distracted in mind as to render such person incapable of properly and safely attending to and managing the same, the judge of said court shall thereupon order a jury of six jurors to be summoned to ascertain whether such person is so insane or distracted as to render him or her incapable and unfit to care for and manage his or her estate; and if said jury shall return in their verdict that such person is so insane or distracted in mind as to be incapable and unfit to take care of

Compensation
of commis-
sioners.

Superinten-
dent to obtain
plans, etc.

Ibid § 6.
State insane
tax to be
levied.

General Laws
of 1877.
§ 1698,
as amended
by act of 1879,
p. 80, § 1.
Summoning
of jury on in-
quisition of
lunacy.

Appointment
of conserva-
tor of insane

and manage his or her estate, it shall be the duty of ^{person's} said county court to appoint some fit person to be conservator of his or her estate.

8. If any person shall present to the county court of the county where any such conservator hath been appointed, an information in writing, setting forth that the insane person hath been restored to his or her reason, such court shall cause the fact to be inquired of by a jury. If upon such inquest, it shall be found that such person hath been restored to his or her reason, he or she shall be immediately set at liberty, and the county court shall issue a summons requiring the conservator to appear and settle his accounts. The expenses attending any inquest held under this chapter, shall be paid out of the estate of such insane person, upon the order of the county court, or, if there be no such estate, the county commissioners of the proper county, upon certificate of the amount thereof by the judge of the county court, shall allow the same, and a warrant therefor shall be drawn upon the county treasurer.

§ 1724.
How inquest had to determine restoration of lunatic to reason.

9. The overseer of the poor-house of the county, or such other person as the county commissioners may appoint, shall, in case any lunatic hath no relative or friend who will care for him or her, have the charge of the body of such lunatic, and shall have power to confine him or her, and shall comfortably support such person, and make out an account thereof and return the same to the county commissioners, whose duty it shall be, on satisfactory proof of the justice of such account, to issue their warrant on the treasurer of the county therefor; or, if such lunatic hath any estate in the hands of his conservator, such account shall be rendered to the county court, and upon the order of the county court, the conservator shall pay the same out of any moneys in his hands pertaining to such estate, and which may lawfully be so applied.

§ 1720.
Who to have custody of body of lunatic; how supported

10. Whenever any reputable person shall file with the county court a complaint duly verified, alleging that any person is so insane or distracted in mind as to endanger his own person or property, or the person or property of another or others if allowed to go at large, the county court or judge thereof shall forth-

§ 1725,
as amended
by act of '79,
p. 90, § 2.
Arrest of insane person.

with issue an order in the name of the people, directed to any sheriff or constable of said county for the apprehension of such alleged insane person, which order may be executed by any sheriff or constable of said county, or by any person specially appointed by said court to execute the same; *provided*, that when any sheriff or constable shall find within his county any such insane person at large, it shall be his duty to apprehend such insane person without an order of court. And when any alleged insane person shall be so arrested by, or without an order of court, he or she shall be taken forthwith before the county court, or judge thereof, and if the alleged insane person so elect, an inquest, as provided for in section 1 shall be held without delay; and until the determination of such inquest such alleged insane person shall be confined in the county jail or other convenient place. If, upon such inquest, it shall be found in the verdict of the jury that such alleged insane person is so insane or distracted in mind as to endanger his or her own person or property, or the person or property of another or others if allowed to go at large, it shall be the duty of the court, by an order to be entered of record, to commit such insane person to the county jail, or other convenient place, to be there confined until discharged on inquest, or otherwise disposed of according to law; *provided*, that both before and after such inquest upon application of any relative or friend of such alleged insane person, and upon its satisfactorily appearing that the applicant is a suitable and proper person to have the custody of such alleged insane person, the county court shall order such alleged insane person to be delivered into the custody of such relative or friend; *provided further*, that the complaint mentioned in section 1 may be joined with the complaint mentioned in this section; and when both complaints shall be on file in the court at the same time, one inquest shall determine the matters charged in both complaints.

11. No inquest of lunacy shall be held until at least ten days' previous notice shall have been given to the alleged lunatic, and to the guardian *ad litem* to be appointed by the court, by citation issuing out of the county court, setting forth the substance of the complaint, and the time and place when and where such inquisition will

Provision for
inquest.

Order for
commitment.

§ 1826,
as amended
by act of '79,
p. 91, § 3.
Notice of
inquest.

be held, and requiring the alleged lunatic to attend, unless the alleged lunatic shall waive such notice and elect that the inquest shall be sooner held; *provided*, that every inquest concerning the lunacy of any person shall be brought and conducted in the name of the people; *provided further*, that no inquest shall be had as to the lunacy of any person charged with a criminal offense until the like notice has been given to the district attorney or other officer charged by law to prosecute such offense, and that nothing in this chapter shall be so construed as to exempt the relatives and next of kin to any insane pauper from their liability for his or her support; and all moneys expended by any county for the maintenance of any such insane person, under the provisions of this chapter, may be recovered of the person or persons who are or may be liable by law for his or her maintenance.

Notice to district attorney.

Expenses, where chargeable.

12. All sums of money received into the state treasury, from the collection of the tax for the support of lunatic paupers, as provided in the chapter concerning revenue, shall be kept separate and apart from all other funds in said treasury, and shall be designated as the "fund for the support of the insane," and such fund shall be disbursed as follows:

§ 1727.
Fund for support of insane; how kept.

13. Whenever any county shall hereafter expend any sum of money in the necessary support, maintenance or preserving in custody of any lunatic pauper, such county shall be reimbursed from the fund for the support of the insane. The county commissioners of such county shall present an account of all such expenditures, expressing the items of such expenditure, the name of the pauper for whose support the same was made, and the time of such expenditure, to the auditor of the state, and together with such account they shall present the accounts of the persons to whom such sum of money was paid, with attached thereto the affidavit of such person that such account is true and just, that the services charged for were actually and necessarily rendered in the support and keeping of such pauper, and that he hath received from such county payment therefor; also, together with said account shall be presented an exemplification of the record of the proceedings in the county court of such county,

§ 1728,
as amended by act of 1877.
Fund for support of insane; how expended.

whereby such pauper was adjudged to be a lunatic, and a certificate from the county judge that such lunatic hath not been since adjudged sane as provided by law; *provided*, that such exemplification shall be filed and preserved by the auditor in his office, and at any subsequent presentation of any claim for the support of the same lunatic, it shall not be necessary to renew such exemplification. Upon the presentation of such account, verified as aforesaid, and upon proof by the affidavit of two or more of such county commissioners, that such lunatic hath no estate, and no relation within the state, so far as known or believed by them, or none of sufficient ability to maintain him or her, the auditor, if nothing appears to show that such claim is fraudulent or factitious, shall allow the same, and draw his warrant upon the treasury for the amount

Transportation of lunatic to, and keeping at, asylum of other states; how expenses paid.

so allowed, payable out of the insane fund. Until such time as the state of Colorado shall have provided a place for the custody and subsistence of lunatic paupers, the same shall be transported to some convenient asylum, either within or out of the limits of this state, where such pauper will receive such attention and treatment as he or she may require; the expense necessarily incurred in and about the transportation of such lunatic pauper, as well also his or her bills at the asylum, shall be borne and paid by the county of which such lunatic pauper is a resident, the same upon proper vouchers, presented for that purpose, to be repaid to such county out of the state fund for the support of the insane.

14. All such warrants shall be paid as other warrants are, in § 1729. *Payment.* the order in which the same are presented.

15. If at any time after the payment of any such account for the support of any lunatic pauper, it shall appear that such lunatic had, at the time, relations within the state, bound by law, and of sufficient ability, to support him or her, an action shall lie in behalf of the state to recover from such relative all such sums of money so expended.

§ 1730. Recovery of moneys expended for the support of lunatic from relatives bound for his support.

16. The term lunatic, as used in this chapter, shall be construed to include idiots, insane and distracted persons, and every person who, by reason of intemperance, or any disorder or unsoundness of mind, shall be incapable of managing and caring for his own estate.

§ 1731. Construction of the term lunatic.

17. A lunatic or insane person without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he may be charged; *provided*, the act so charged as criminal shall have been committed in the condition of insanity.

§ 800.
Insane persons not to be found guilty of crime.

CONNECTICUT.

GOVERNMENT OF MIDDLETOWN ASYLUM.

1. Establishment.
2. Government vested in board of trustees, appointment and compensation.
3. Trustees, their powers and duties.
4. Superintendent, appointment, qualifications and residence.
5. Trustees, expenses of, to be paid.
6. Treasurer, appointment, duties, salary.

MANSFIELD ASYLUM.

7. Establishment; government vested in board of trustees.
8. Appropriation for purchase.
9. Appropriation for furnishing.
10. Superintendent and assistant; salaries.

INSPECTION OF ASYLUMS.

11. By state board of charities.
12. Visitation of asylums by.
13. Annual report of.

ADMISSION AND DISCHARGE.

14. Examination for admission by judge and physician; support, expenses of, how borne.

15. Patients admitted under special agreements.
16. Commitment on physician's certificate.
17. Insane going at large; examination and commitment, application for.
18. Expenses, how borne.
19. Dangerous insane committed on physician's certificate.
20. Insane going at large; examination and commitment of on complaint, expenses how borne.
21. Charges for indigent insane.
22. Support of insane, how borne.
23. Support of insane, town may contract for.
24. Support of insane, town reimbursed for.
25. Transfer of patients.
26. Discharge from asylums.

CRIMINAL INSANE.

27. Commitment of, expenses, how borne.
28. Commitment of, having been heretofore acquitted.
29. Petition for discharge.
30. Insane convict, examination of.
31. Notice to selectmen and removal of convict.

1. The land of the state and its appurtenances in Middletown shall be and remain the Connecticut hospital for the insane.

Gen. Stat. Rev.
of '70, tit. 8,
ch. 4, § 1.
Establishment.

2. Its government shall be vested in a board of trustees, consisting of the governor, one from each county to be appointed by the senate, and three from the vicinity of the institution to be appointed by the others.

Ibid § 2.
Board of trustees,
how appointed.

The places of the two senior members of the board in the order of their appointment shall be vacated annually, but they may be eligible for reappointment as junior members. No trustee shall receive compensation for his services.

3. The trustees shall have charge of the general interests of

the institution, make and execute its by-laws, appoint and remove its officers and attendants, fix their compensation, exercise a strict supervision over all its expenditures, and may receive by bequest, devise, or gift, property for the use of the hospital.

Ibid § 3.
Duties of
trustees.

4. They shall appoint a superintendent, not of their own number, who shall be a competent physician and reside in or near the hospital.

Ibid § 4.
Superinten't.

5. * * * The trustees of * * * the Connecticut hospital for the insane, * * * their necessary expenses, to be paid by the state, as audited by the controller.

Tit. 13, ch. 2.
Compensation
of trustees.

6. They shall appoint a treasurer, with a salary not exceeding four hundred dollars a year, who shall give a bond to the state of ten thousand dollars to account faithfully for all property received by him as treasurer, and keep accurate accounts of his receipts and expenditures, and of the property entrusted to him, which accounts, with the vouchers, shall be submitted quarterly, and oftener if required, to the trustees, with a written statement of his disbursements and funds in hand, and his books shall be at all times open to the trustees.

Tit. 8, ch. 4,
§ 5.
Treasurer.

7. There is hereby created a board of trustees of the insane poor hospital at Mansfield. It shall be composed of five persons, who shall be appointed by the general assembly for the term of five years, and one shall be appointed each year for the term of five years. The trustees appointed in 1877 shall be appointed for the term respectively of one, two, three, four, and five years.

Act of 1877,
ch. 147, § 1.
Trustees of
insane poor
hospital at
Mansfield.

8. The sum of five thousand dollars is hereby appropriated for the purchase of the land and buildings at Mansfield, heretofore used as the Soldiers' Orphans' Home, to be used as an insane poor hospital.

Ibid § 2.
Appropriation
for purchase
of the land.

9. There is hereby appropriated for the proper furnishing of said hospital at Mansfield, the sum of one thousand dollars.

Ibid § 3.
For furniture.

10. The trustees shall appoint a superintendent of said hospital, not of their own number, and such additional help, both male and female, as may be needed to take charge of such hospital: *provided*, that the total annual

Ibid § 5.
Superinten-
dent

expense for salaries shall not exceed four thousand dollars, and the trustees shall have the general charge and control of said hospital.

11. There shall be a board of charities, consisting of three men and two women, appointed by the governor, and removable at his pleasure, who may inspect all incorporated hospitals, and shall inspect all institutions in which persons are detained by compulsion, to ascertain whether their inmates are properly treated, and (except in cases of detention upon legal process,) to ascertain whether any have been unjustly placed, or are improperly held therein, and may examine witnesses, and send for persons and papers, and correct any abuses found to exist, in such manner as not to conflict with any personal, corporate, or statutory rights, acting, so far as practicable, through the persons in charge of such institutions, and with a view to sustain and strengthen their rightful authority; and no measures shall be adopted without the assent of the persons so in charge, except at a meeting of the board, at which at least four members shall be present, or by a written order, signed by a majority of the board. An appeal may be taken to the governor from any action of the board, by the persons in charge of such institutions.

12. Every institution which the board is required to inspect, shall be visited by one or more members frequently, and the state prison, reformatory schools, and insane asylums, as often as once a month, and by at least one member of each sex; no previous notice of such visits shall be given to the persons in charge of the institution visited, at every such visit, an opportunity shall be offered to each inmate for private conversation with some member of the board. Any communication directed to any member of said board, by any inmate of said institutions, shall be immediately forwarded to the post-office by the persons in charge, without inspection.

13. Said board shall make an annual report to the governor, containing such statements and suggestions as it shall think proper.

14. When any pauper in any town may be insane, a selectman of such town shall apply to the judge of probate of the district wherein said pauper resides, for his admis-

Tit. 3, ch. 1,
part 13, § 1.
Board of
charities, ap-
pointment
and duties.

Appeals to the
governor.

Ibid § 2.
To visit
reformatory
and other in-
stitutions.

Ibid § 3.
Annual re-
port.

Tit. 8, ch. 4, § 6,
as amended
by act of '78,

sion to said hospital; and said judge shall appoint a respectable physician, who shall fully investigate the facts of the case and report to said judge; and if such physician shall be satisfied that said pauper is insane, the judge shall order such selectman forthwith to take such insane pauper to the hospital, where he shall be kept and supported so long as may be requisite; and two dollars and fifty cents per week of the expense of his support shall be paid by the town legally chargeable with his support, and the balance by the state; and when an indigent person not a pauper is insane, application may be made in his behalf to the judge of probate for the district where he resides, who shall appoint a respectable physician, and a selectman of the town where said indigent person resides, who shall fully investigate the facts, and report to said judge, who, if satisfied that such person is indigent and insane, shall order him to be taken by the person making the application to the hospital, where he shall be kept and supported as long as may be requisite, and half of the expense of his support shall be paid by the state and half by the person making the application; and when a judge shall issue an order for the admission of any pauper or indigent person to the hospital, he shall record it and immediately transmit a duplicate to the governor.

ch. 103, § 1, & act of '79, ch. 71, § 1. Proceedings to commit insane paupers to Connecticut hospital.

15. The trustees may authorize the superintendent to admit patients into the hospital, under special agreements when there are vacancies.

Ibid § 7, as amended by act of '78, supra. Admission of patients under special agreements.

16. Any insane person may be put in any suitable place of detention on the presentation of a certificate, made within thirty days, signed by some reputable physician, that he has made a personal examination of such person, within one week prior to the date thereof, and that such person is insane, which certificate shall be sworn to before some officer authorized to administer oaths in the state where it is given, who shall certify to the genuineness of the signature thereto, and respectability of the signer; and any such person may be removed by the person placing him in such place of detention.

TIT. 8, ch. 5, § 6. How insane persons may be put in place of detention.

17. On a written complaint, made to any judge of the superior court, that a person named therein is insane and unfit to go at large, such judge shall im-

Ibid § 7. How committee to be ap-

pointed to inquire into case of alleged insanity. immediately appoint a committee consisting of a physician and two other persons, one of whom shall be an attorney-at-law, judge, or justice of peace, who, after such person has been notified according to the order of such judge of the superior court, shall inquire into such complaint, and report to him the facts of the case and their opinions thereon; and if, in their opinion, such person should be confined, such judge shall issue an order therefor.

Ibid § 8. Costs. 18. The judge before whom any of the proceedings provided for in the preceding section are had, shall tax reasonable costs, at his discretion, and issue execution therefor.

Ibid § 10. Confinement of dangerous insane persons. 19. If any dangerous insane person shall go at large, a justice of the peace and the first selectman of the town, where he belongs or resides, on such certificate of a respectable physician of such town as is required in the sixth section of this chapter, shall order him to be confined in some suitable place; and if the person under whose care he shall be, or who is bound to support him, shall not confine him to such place and manner as they shall direct, they shall provide for his confinement and support in some suitable place.

Ibid § 11. Proceedings concerning insane persons going at large. 20. When any insane person shall go at large in any town, any person may complain to any selectman or justice of the peace of said town, and if he do not, within three days thereafter, provide for the confinement of such insane person, agreeably to the preceding section, the complainant may complain in writing, under oath, to any justice of the peace in said town, informing him that such insane person is unfit to go at large; and such justice shall thereupon issue his warrant to any constable of such town, commanding him, forthwith, to bring such insane person before some justice of the peace residing in the same town, who upon finding that such insane person is unfit to go at large, may order him to be confined in some suitable place for such time as he shall deem proper; but he may, at any time thereafter, for just cause, order his discharge; and the superior court, on the petition of any person so confined, or of his relatives, to which petition the town where he belongs shall be made respondents, may make any proper order with respect to his future disposal. All expenses incurred under this and the

preceding section shall be paid out of the estate of such insane person, if he has any; if not, by his relatives liable by law to support him, if of sufficient ability; and if there be none such, then by the town to which he belongs.

21. The price for keeping any pauper or indigent person shall be fixed by the trustees, and shall not exceed the sum of four dollars per week, and shall be payable quarterly.

Tit. 8, ch. 4, § 8, as amended by act of 1878, ch. 103, § 3. Price for keeping indigent patients.

22. There shall be taxed monthly by the comptroller, one dollar and fifty cents for each week's board at said hospital, and two dollars for each week's board at any other hospital or asylum for the insane, of all insane paupers belonging to towns in this state committed in pursuance of the first section of this act, and two dollars for each week's board at said hospital and one-half of the expense of each week's board at any other hospital or asylum for the insane of all insane indigent persons committed in pursuance of this act; and the superintendents of each of said institutions shall make the bill therefor and present it to the governor, upon whose approval it shall be paid from the state treasury.

Ibid § 9, as amended by act of 1878 and act of 1879 ch. 71, § 2. Support of insane paupers in hospital.

23. The selectmen of any town may contract in its behalf with the officers of the Retreat for the Insane at Hartford, for the support of any insane poor belonging to such town.

Tit. 3, ch. 3, part 2, § 2. May contract for support of insane poor.

24. Any sum paid by any town for the support of an insane person under the provisions of chapter 103, public acts of 1878, or prior to the passage of said act, may be recovered by such town from such insane person, or out of his estate, in an action of assumpsit, and the statute of limitations shall not be pleaded against any portion thereof.

Act of 1879, ch. 101, p. 452. Towns may recover money paid for support of insane persons.

25. It shall be the duty of the governor to cause to be transferred from time to time, and it shall be the duty of the trustees of the Connecticut hospital for the insane from time to time to transfer from said hospital to the hospital at Mansfield, all cases of chronic insane paupers that are considered incurable, or not needing special medical treatment.

Act of 1877, ch. 147, § 4.

26. Persons in charge of any place of detention for the

Tit. 8, ch. 5, § 9.
Discharge. insane may discharge persons placed therein, at their pleasure.

Tit. 20, ch. 13,
part 4, § 4, as
amended by
act of '81, ch.
19, § 1.
Insane con-
victs, how
disposed of. 27. Any superior court, city court, or police court in this state, before which any person shall be tried on any criminal charge, and acquitted on the ground of insanity or *dementia*, may order such person to be confined in the Connecticut hospital for the insane for such time as such court shall direct, unless some person shall undertake before said court, and give bond to the state, conditioned to confine such person in such manner as such court shall order; and said court shall appoint an overseer to such person, if he have any estate, with the same powers and duties as conservators appointed by courts of probate, such overseer giving suitable bonds to the state, conditioned for the faithful performance of his trust; and if such person have no estate, and belongs to any town in this state, the expense of his confinement, support and treatment shall be paid by such town and the state, in the same manner as is by law provided in the case of pauper patients committed by courts of probate; and if such person have no estate and does not belong to any town in this state such expense shall be paid by the state.

Act of 1875,
ch. 43, in ad-
dition to § 4,
supra, pl. 27.
Criminals
heretofore
acquitted on
ground of in-
sanity may be
ordered to be
confined in
Conn. hosp.
for insane. 28. The superior court of the county in which any person may be confined, who shall have been at any time heretofore tried on any criminal charge, and acquitted on the ground of insanity or *dementia*, may order him, or her, to be confined in the Connecticut hospital for the insane, upon the same conditions, and under the same restrictions, as are hereinbefore provided in the section to which this act is an amendment, in the case of persons who may hereafter be tried on any criminal charge, and acquitted on the ground of insanity or *dementia*.

Act of 1882,
ch. 146, § 1.
Discharge of
insane crimi-
nals from
asylum. 29. Any person who has been tried on any criminal charge and acquitted on the ground of insanity or *dementia*, and confined in the Connecticut hospital for the insane, may petition, or the officers of said institution may petition, the superior court of the county in which he is confined for his enlargement, and the petition shall be served like civil process on the selectmen

of the town to which he belongs, and said court shall make such order as to his disposal as it shall deem proper, and the state's attorney for such county shall appear and oppose such application, and if such person so confined shall be unable to defray the expenses of said petition, the court before which the same is heard may tax the expenses of such petition against the state as in criminal cases.

30. Whenever any jailor or county commissioner shall be of the opinion that any person confined in jail upon the commitment of a justice of the peace, in any cause within the final jurisdiction of such justice, is insane or an idiot, it shall be the duty of the county commissioners to appoint some reputable physician to make an examination of such prisoner, and if such physician shall be of the opinion that such prisoner is insane or an idiot, he shall make and sign a certificate to that effect, and deliver the same to said commissioners.

Act '83, ch. 56,
§ 1.
Examination
of supposed
insane or idi-
otic prisoners
committed by
a justice.

31. Said commissioners, on the receipt of such certificate, may give notice in writing to the selectmen of the town where said prisoner belongs, that he has been found to be insane or an idiot and transmit to them a copy of such certificate, and said selectmen shall thereupon forthwith remove such prisoner from the jail and provide for him in some suitable place.

Ibid § 2.
Disposal of
such insane
or idiotic
prisoner.

DAKOTA.

GOVERNMENT OF YANKTON ASYLUM.

1. Establishment.
2. Board of trustees, appointment, term of office.
3. Their compensation.
4. Officers of, records and reports.
5. Number of copies printed.
6. Annual and special meetings.
7. Board of trustees, powers and duties; superintendent, qualifications; assistants; salaries.
8. Seal of the asylum.
9. Land may be held by trustees.
10. Additional buildings, power to construct.
11. Interest in contracts forbidden.
12. Trustees not eligible to other offices.
13. Inspection of asylum.
14. Supplies to be advertised for.
15. Superintendent, powers and duties; appointment of employes.
16. Steward, bond, shall draw warrants.
17. Accounts of, control of ground.
18. Purchase of supplies and care of property.
19. Auditing of his accounts.
20. Assistant physician, qualifications.
21. Matron, general duties.
22. Asylum grounds not to be used for a cemetery.
23. Expenditures beyond appropriations forbidden.
24. Additional wing, appropriation for.

JAMESTOWN ASYLUM.

25. Establishment, appropriation for.
26. Apportionment of counties.
27. Government of asylum.

ADMISSION AND DISCHARGE.

28. Commissioners of insanity, appointment of.
29. Oath and organization.
30. Chairman, duties of.
31. Applications for admission, submitted to.
32. Application for admission, must contain what.
33. Examination, physician's certificate
34. Finding of commissioners, commitment, expenses.
35. Commissioners to be furnished with blank forms.
36. Care of patients to be impartial, private patients may have special care.

37. Special care at expense of relatives.
38. Care of insane when asylum is filled.
39. Care of insane out of asylum.
40. Inquiry into condition of insane out of asylum.
41. Restraint of insane to be under authority of law.
42. Cruelty to insane, penalty for.
43. Transfer of insane to asylum.
44. Interrogatories to be answered.
45. Preferences, when given.
46. Petition for discharge; appointment, investigation, and finding of commission; order of judge.
47. New commission granted in six months.
48. Habeas corpus, when granted.
49. Escape from asylum, proceedings upon.
50. Discharge on recovery, patients supplied with clothing and money, relatives may remove when not dangerous.
51. Dangerous insane, when removed by relatives.
52. Notice of discharge to commissioners.
53. Support; liability of insane and relatives.
54. Fees for services, by whom paid.
55. Neglect of duties, penalty for.
56. Physician's certificate absolves superintendent.
57. Seal of asylum to be affixed to papers.
58. Definition of insane and idiot.

CRIMINAL INSANE.

59. Non-liability of insane to law.
60. Jury to try insanity.
61. Postponement of trial or judgment.
62. Order of trial for insanity.
63. Duties of court and jury.
64. Resumption of proceedings in case of sanity.
65. Proceedings suspended in case of insanity; commitment.
66. Bail, exoneration of, on commitment.
67. Proceedings resumed on restoration to sanity.
68. Support, expenses of, borne by county; reimbursement of counties.

1. The Dakota Hospital for the Insane, until otherwise provided by law, is hereby established on the southeast quarter of section No. thirty-six (36), in township No. ninety-four (94), north of range No. fifty-six (56), west, in the county of Yankton, near the city of Yankton.

Act of 1879,
ch. 23, § 1.
Established.

2. The governor, by and with the consent of the council, shall appoint five persons, residents of this territory, at least three of whom shall be residents of Yankton county, to be called and known as the Board of Trustees of the Dakota Hospital for the Insane, three of whom shall hold their office for two years and two for four years, and until their successors are appointed and qualified, except to fill vacancies, which shall only extend to the end of the next session of the legislature. In case of any vacancy occasioned by the removal from the territory by such trustee, or death, resignation or non-acceptance of the office, the governor shall immediately fill such vacancy, and unless the person so appointed shall accept the office within twenty days the governor shall immediately thereafter appoint some other person, and each of said members of the said board shall before entering upon the duties of his office, take and subscribe the oath of office required by law, which oath shall be filed with the governor of the territory.

Act of 1881,
ch. 83, § 1.
Appointment
of trustees.

3. The trustees shall be paid at the rate of three dollars per day for the time necessarily incurred in the discharge of their official duties, and five cents per mile going and returning, necessarily traveled in the discharge of said duties. Upon the presentation of the proper vouchers, containing an itemized statement of the sum due each trustee for services rendered, and for mileage, duly signed by the president of the board of trustees and countersigned by the secretary of the said board, the territorial auditor shall draw his warrant upon the territorial treasurer therefor, to be paid out of the territorial treasury.

Ibid § 2.
Compensation
of trustees.

4. The trustees shall elect a president and secretary from their own number, whose term of office shall be for one year, or until said board shall elect their successors. They shall make a record of their proceedings at all meetings in a book kept for that purpose; and at their annual meetings next preceding the regular sessions of

Ibid § 3.
Officers of the
board, and
duties.

the legislature, they shall make a report to the governor of the condition and wants of the hospital, which shall be accompanied by a full and accurate report of the superintendent, which shall show the annual cost per capita of the inmates, and the per cent. of discharges and recoveries, and a detailed account of all moneys received and paid out by the steward, and shall have not less than five hundred copies of said report printed.

5. Resolved, That there be ordered printed for the use of the members of this legislative body, the council concurring, 500 copies of the report of the trustees and wardens of the insane asylum and 500 copies of each of the reports of the territorial auditor and territorial treasurer, and that the same be paid for out of appropriation for printing.

Act of 1881,
ch. 25, res. 1.,
p. 189.
What resolutions to be
printed.

6. The fiscal year of the hospital shall close on the thirtieth day of November each year, and the annual meetings of the board of trustees shall be on the first Wednesday of December thereafter at the hospital. Special meetings for the appointment or removal of resident officers, or for the transaction of general business, may be held in any convenient place, upon the written request of the president or any three members of the board; three members of the board shall constitute a quorum for the transaction of business.

Act of 1881,
ch. 83, § 4.
Fiscal year
and annual
meeting.

7. The board of trustees shall have the general control and management of the hospital; shall make all by-laws, rules and regulations necessary for the government of the same, not inconsistent with the laws of the territory; they shall appoint a superintendent, who shall be a physician of acknowledged skill and ability, a graduate of a reputable regular medical college and of unimpeachable moral character; one or more assistant physicians when they shall deem such appointment necessary, a steward and a matron, all of whom shall be styled the resident officers of the hospital and shall reside therein, and shall be governed by the laws and by-laws established by the same. Said board shall fix from time to time the compensation of the employes of the hospital, and certify the same to the territorial auditor; the salaries of the resident officers of the "Dakota Hospital for the Insane" shall be per annum as follows: superintendent, \$1500;

Ibid § 5.
Trustees
to appoint officers,
adopt rules, and fix
salaries.

steward, \$1200; matron, \$500; and assistant physician, when such officer is appointed, \$750. These salaries shall be paid monthly as provided in section 11 of this act.

8. The board of trustees shall provide a seal, upon which shall be inscribed the name of the hospital, to wit: "The Dakota Hospital for the Insane," with the name of the territory, with such other words and devices as they may deem appropriate.

Act of 1879,
ch. 23, § 14.
Hospital seal.

9. The board of trustees may take in the name of the territory and hold in trust for the hospital, any land conveyed or devised, and any money or other personal property given or bequeathed, to be applied for any purpose connected with the institution.

Act of 1879,
ch. 23, § 8.
May take and
hold lands,
etc.

10. Whenever any additional building is to be erected, or extension, alterations or repairs to be made in connection with the hospital, the board of trustees shall have authority to procure all necessary plans, drawings and specifications for such building, alterations or repairs; to advertise for proposals for the erection and completion thereof, in such manner as may be most advantageous, and to contract with the lowest responsible bidder therefor, such contractor in every case to give adequate security for the faithful performance of his contract; to appoint and discharge a building superintendent, who shall superintend the work and perform such other duties as they may require, and receive such compensation as the board shall determine, and to examine and certify the correctness of the estimates and accounts for work under the contract, and of their superintendent and employees.

Act of 1881,
ch. 83, § 6.
Authority of
trustees in
constructing
new build-
ings.

11. No trustee or officer of the hospital shall be either directly or indirectly interested in any contract for the purchase of building material, supplies or any other article for the use of the institution.

Act of 1879,
ch. 23, § 9.
Shall not be
party to
contract.

12. No trustee shall be eligible to the office of steward or superintendent of the hospital during the term for which he was appointed.

Ibid § 10.
Trustee not
eligible to
other office.

13. One or more of the trustees shall visit the hospital monthly, and the president of the board, with the superintendent, shall make monthly examinations of the accounts of the steward and certify their

Act of 1881,
ch. 83, § 7.
Visits and
examinations.

approval or otherwise on the same page with his monthly balances.

14. The board of trustees shall advertise quarterly for proposals for all supplies necessary for the patients and employes of the hospital, and shall award the contract to the lowest responsible bidder, reserving the right to reject any and all bids. The party to whom such contract shall be awarded shall give a bond, approved by the board of trustees, to the territory of Dakota, for the use of the hospital, conditioned for the faithful performance of such contract.

Act of 1879,
ch. 23, § 16.
Trustees to ad-
vertise for sup-
plies quart'ly.

15. The superintendent of the hospital shall before entering upon the duties of his office, give a bond to the territory of Dakota in the penal sum of twenty-five hundred dollars, conditioned that he will faithfully and impartially discharge the duties of his office according to law and the by-laws of said hospital, to be approved by said board, and take and subscribe an oath faithfully and diligently to discharge the duties required of him by law and the by-laws of the board of trustees, which bond and oath shall be filed with the treasurer of the territory; he shall be the chief executive officer of the hospital, and have entire control of the medical, moral and dietetic treatment of the patients; he shall exercise entire control over all subordinate officers; he shall employ all employes and assistants necessarily connected with the institution below the grade designated in the by-laws as officers; and may discharge any employe at will and suspend any resident officers of the hospital except the steward, being responsible to the board for the proper exercise of that duty in regard to officers.

Act of 1881,
ch. 83, § 8.
Bond and du-
ties of the
superintend't.

16. The steward shall execute a bond to the territory of Dakota for the use of the hospital in such sum as may be fixed by the board, to be approved by the board, conditioned that he will faithfully perform the duties of his office and pay over and account for all moneys that shall come into his hands; which bond shall be filed with the secretary of this territory. Upon authority granted by the board he may draw from the territorial treasury, upon his order, approved by the superintendent and president of the board, and under the seal of the hospital, from time to time,

Act of 1879,
ch. 23, § 11.
Steward's
bond and
duties.

from the appropriations made by the legislative assembly for that purpose, such sums as may be requisite to meet the current expenses of the hospital. Upon the presentation of such order to the territorial auditor he shall draw a warrant upon the territorial treasury for the amount therein specified. No part of the money drawn for current expenses shall be used in making improvements. Money appropriated for the purpose of building or other improvements shall in like manner be drawn from the territorial treasury by the steward of the hospital; *provided*, that an itemized account shall be presented and filed with said auditor before auditing any account under this act.

17. The steward shall keep the accounts, pay those employed in and about the hospital and have a personal superintendence of the farm, garden and grounds, and perform such other duties as are assigned him by the by-laws of said hospital or by the board of trustees.

Act of 1881,
ch. 83, § 9.
Duty of
steward.

18. Under the direction of the superintendent the steward shall purchase all supplies, upon the best possible terms and lowest cash value; he shall see that the grounds, buildings and all other property belonging to the hospital are properly preserved and kept in order, and shall perform such other duties as may be required of him by the superintendent and board of trustees.

Ibid § 10.
Steward shall
make pur-
chases.

19. He shall keep an accurate account, in detail, which shall always be open to the inspection of the superintendent and board of trustees, and these accounts shall be carefully balanced on or before the fifteenth day of each month and closed biennially on the thirtieth day of November, next preceding each regular session of the legislature. There shall be provided and submitted for the inspection of the superintendent and board of trustees, on or before the fifteenth day of each month, an original and duplicate balance sheet, which balance sheet shall show the balance of appropriations in the territorial treasury to be applied to the maintenance of the patients or to the general use of the hospital, or from any source whatever; these balance sheets shall also show a detailed statement of all receipts and disbursements during the month, and to what appropriation each belongs, together with the name of each payee

Ibid § 11.
Steward to
keep accounts,
render monthly
statements,
etc.

To prepare
balance
sheets.

and the price paid; there shall be submitted with the balance sheet the original bills of purchase, vouchers for the same, and receipts for all other disbursements of whatever kind, which bills of purchase, vouchers and receipts shall have endorsed on the back of each the signatures attached thereto, with the day, month and year of payment. After the original and duplicate balance sheets have been endorsed as correct by the superintendent and president of the board of trustees, the steward

And file with territorial auditor.

shall within five days thereafter file the original balance sheet in the office of the superintendent and the duplicate thereof with the original bills of purchase, vouchers and receipts pertaining thereto, he shall file in the office of the territorial auditor, and upon the presentation of the monthly balance sheet, properly signed and endorsed as correct by the president of the board of trustees, together with the original bills of purchase, vouchers and receipts pertaining

Who shall draw warrant on the territorial treasurer.

thereto, the territorial auditor shall draw his warrant upon the territorial treasurer for the respective amounts therein stated from the appropriations to which they are properly chargeable.

20. The assistant physician shall be a graduate of a reputable regular medical college, and possess such qualifications as to be able to perform the ordinary duties of the superintendent, during his necessary absence, or disability to act, of such superintendent.

Ibid § 12.
Assistant physician.

21. The matron shall be a person of good moral character and skilled in housekeeping, and shall not be the wife of any of the officers, and under the direction of the superintendent and not otherwise; shall have the general supervision of the domestic arrangements of the hospital, and do all she can for the comfort and welfare of the patients.

Ibid § 13.
Matron.

22. It shall be unlawful for any person or persons to use any portion of section 36, township 94, range 56, as a burying ground, or to bury any dead body thereon, and any person or persons violating or causing any other person to violate the provisions of this section, shall be guilty of a misdemeanor.

Ibid § 47.

23. Nothing in this act shall be construed to authorize the board of trustees to expend money under this bill unless an appropriation shall have been made therefor.

Ibid § 48.
Expenditures beyond appropriation forbidden.

24. [Appropriation for erecting and furnishing an additional wing for the Yankton asylum.]

Act of 1883,
p. 297, § 1.

25. There is hereby appropriated out of the funds provided for in this act, by the negotiation of the bonds herein mentioned, the sum of fifty thousand dollars (\$50,000) for the purpose of erecting a hospital for the insane, at or near the city of Jamestown, Dakota.

Act of 1883,
p. 301.
\$50,000 appropriated.

26. As soon as said North Dakota hospital for the insane shall be ready for the reception and care of patients, the board of commissioners of insanity, constituted under chapter 23, of the laws of 1879, in each organized county lying north of the forty-sixth parallel of latitude, and in each such county of which the greater portion shall be north of said parallel, shall transact all business arising under said chapter 23 with the trustees and officers of said North Dakota hospital, instead of the Dakota hospital for the insane at Yankton; and all counties thus lying north of said line are hereby constituted the district belonging to said North Dakota hospital for all purposes contemplated in said chapter 23, and the other counties in the territory are constituted the district belonging to the Dakota hospital for such purposes; and all patients belonging to said northern district under treatment at the Dakota hospital for the insane at the time said North Dakota hospital shall be ready for patients as aforesaid, shall be transferred to said North Dakota hospital at the expense of the last named institution.

Ibid § 17.
Duties of commissioners on completion of the asylum.

Transfer of patients.

27. All laws heretofore enacted for the government of the Dakota hospital for the insane shall apply to and govern the North Dakota hospital aforesaid, so far as applicable to the same; and all by-laws heretofore adopted by the board of trustees of said Dakota hospital to govern the same, shall apply so and govern the said North Dakota hospital, until they shall be modified or repealed by the action of the board of trustees thereof.

Ibid § 18.
Government.

28. In each organized county of this territory there shall be a board of commissioners, consisting of three persons, to be styled "Commissioners of Insanity," two of whom shall constitute a quorum. The judge of probate shall be a member of said board and its chairman. The other two members shall be appointed by the

Act of 1879,
ch. 23, § 16.
County commissioners of insanity, how appointed.

board of county commissioners, one of whom shall be a respectable practicing physician, and the other a respectable practicing attorney; and appointments shall be made of persons residing as near as may be to the county seat. Immediately on the taking effect of this act these appointments shall be made as provided in this section. One of these commissioners shall be appointed for one year; the other for two years. The appointment of successors may be made at any time within three months prior to the expiration of the term of the incumbent, who shall hold his office until his successor shall be appointed and qualify. In case of the temporary absence or inability to act of two of the commissioners, the judge of probate shall call to his aid a respectable practicing physician or lawyer, who, after qualifying as in other cases, may act in the same capacity. The record in such cases must show the fact of such absence.

29. Before entering upon the duties of their office the persons so appointed shall take and subscribe an oath or affirmation to support the constitution of the United States and the organic act of the territory of Dakota, and to faithfully discharge their duties according to law as such commissioners, which obligation shall be filed with the clerk of said board who shall enter a memorandum thereof on the records. On organizing they shall choose one of their number clerk of said board. They shall hold their meetings for business at the office of the judge of probate, unless for good reasons they shall fix on some other place. If they deem it necessary or advisable, they may hold sessions at such regular times as they may fix. They shall also meet on notice from the chairman of the board.

30. The chairman of the board shall sign and give or issue all notices, appointments, warrants, subpoenas, or other process required to be given or issued by the commissioners, affixing thereto his official seal as judge of probate. He shall file and carefully preserve in his office all papers connected with any inquest by the commissioners, and properly belonging to his office, with all notices, reports and other communications. He shall keep separate books in which to minute the proceedings of the board, and his entries shall be sufficiently full to show, with the papers filed, a complete record of their findings, orders and

Ibid § 17.
Oath of commissioners,
organization
and meetings.

Ibid § 18.
Duties of chairman.
Books to be kept, notices,
etc.

transactions. The notices, reports and communications herein required to be given or made, may be sent by mail, unless otherwise expressed or implied, and the fact and date of such sending, and of their reception, must be noted on the proper record.

31. The said commissioners shall have cognizance of all applications for admission to the hospital, or for the safe keeping otherwise of insane persons within their respective counties, excepting in cases otherwise especially provided for. For the purpose of discharging the duties required by them, they shall have power to issue subpoenas and compel obedience thereto, to administer oaths, and do any act of a court necessary and proper in the premises.

*Ibid § 19.
Powers of
commission-
ers, may issue
subpoenas,
etc.*

32. Application for admission to the hospital must be made in writing, in the nature of an information verified by affidavit. Such information must allege that the person, on whose behalf the application is made is believed by the informant to be insane and a fit subject for custody and treatment in the hospital; that such person is found in the county and has a legal settlement therein, if such is known to be the fact; and if such settlement is not in the county, where it is, if known, or where it is believed to be, if the informant is advised on the subject.

*Ibid § 20.
Admission to
hospital.
Information
to be filed.*

33. On the filing of an information as above provided, the commissioners shall at once take steps to investigate the grounds of the information. For this purpose they may require that the person for whom such admission is sought be brought before them, and that the examination be had in his or her presence, and they may issue their warrant therefor and provide for the suitable custody of such person until their investigation shall be concluded. Such warrant may be executed by the sheriff or any constable in the county, or if they shall be of opinion from such preliminary inquiries as they shall make, and in making which they shall take the testimony of the informant, if they deem necessary or desirable, and of other witnesses, if offered, that such course would probably be injurious to such person, or attended with no advantages, they may dispense with such presence. In their examination they shall hear testimony for and against such application, if any is offered. Any citizen of

*Ibid § 21.
Proceedings of
commissioners.*

*To hear
testimony.*

the county, or any relative of the person alleged to be insane, may appear and resist the application, and the parties may appear by counsel if they elect. The commissioners, whether they decide to dispense with the presence before them of such person or not, shall appoint some regular practicing physician of the county to visit or see such person and make a personal examination touching the truth of the allegation in the information, and touching the actual condition of such person, and forthwith report to them thereon. Such physician may or may not be of their own number, and the physician so appointed and acting, shall certify under his own hand that he has, in pursuance of his appointment, made a careful personal

**Medical
examination.**

examination as required, and that on such examination he finds the person in question insane, if such be the fact, and, if otherwise, not insane; and in connection with his examination the said physician shall endeavor to obtain from the relative of the person in question or from others who know the facts, correct answers, so far as may be, to the interrogatories hereinafter required to be propounded in such cases, which interrogations and answers shall be attached to his certificate.

34. On the return of the physician's certificate the commissioners shall, as soon as practicable conclude their investigations, and having done so, they shall find whether the person alleged to be insane is insane; whether, if insane, a fit subject for treatment and custody in the hospital; whether the legal settlement of such person is in their county, and if not in their county, where it is, if ascertained. If they find such person is not insane, they shall order his or her discharge if in custody. If they find such person insane, and a fit subject for treatment and custody in the hospital, they shall forthwith issue their warrant and a duplicate thereof, stating such finding, with the settlement of the person, if found, and if not found, their information, if any, in regard thereto, authorizing the superintendent of the hospital to receive and keep such person as a patient therein. Such warrant and duplicate, with the finding and certificate of the the physician, shall be delivered to the sheriff of the county, who shall execute the same by conveying such person to the hospital, and delivering him or her, with such duplicate and

**Ibid § 22.
How patient
to be sent to
hospital.**

physician's certificate and finding to the superintendent thereof. The superintendent, over his official signature, shall acknowledge such delivery on the original warrant, which the sheriff shall return to the clerk of the commissioners with his cost and expenses endorsed thereon. If neither the sheriff nor his deputy is at hand, or if both are otherwise engaged, the commissioners may appoint some other suitable person to execute the warrant in his stead, who shall take and subscribe an oath or affirmation faithfully to discharge his duty, and shall be entitled to the same fees as the sheriff. The sheriff or any other person so appointed, may take to his aid such assistance as he may need to execute such warrant; but no female person shall thus be taken to the hospital without the attendance of some other female, or some relative of such person. The superintendent in his acknowledgment of delivery must state whether there was any such person in attendance, and give the name or names, if any. It is, however, hereby provided that if any relative or intimate friend of the patient, who is a suitable person, shall so request, he shall have the privilege of taking and executing such warrant, in preference to the sheriff or any other person, and without taking such oath or affirmation, and, for so doing he shall be entitled to his necessary expenses, but no fees.

35. The trustees of the hospital shall provide for furnishing the commissioners of insanity of the counties entitled to send patients to the hospital with such blanks for warrants, certificates, etc., as will enable them with regularity and facility to comply with the provisions of the law, and also with copies of the by-laws of the hospital when printed.

*Ibid § 46.
Trustees to
furnish
blanks.*

36. All patients in the hospital shall be regarded as standing on an equal footing; and the several patients according to their different conditions of mind and body and their respective needs shall be provided for and treated with equal care: *provided*, that if the relatives or immediate friends of any patient shall desire it and pay the expenses thereof, such patient may have special care and may be provided with a special attendant, as may be agreed upon with the superintendent. In such cases, the charges for such special care and attendance shall be paid quarterly in advance.

*Ibid § 23.
Care of
patients to be
impartial, ex-
cept in certain
cases.*

37. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patient therein, and the superintendent shall cause the account of such patient to be credited with any sums so paid.

38. If in the case of any persons found to be insane and fit subjects for custody and treatment in the hospital as above provided, it shall be shown to the satisfaction of the commissioners that they cannot at once be admitted therein, and they cannot with safety be allowed to go at liberty, the commissioners shall require that such patient shall be suitably provided for otherwise, until such admission can be had, or until the occasion therefor no longer exists. Such patients may be cared for either as public or private patients. Those shall be treated as private patients whose relatives or friends will obligate themselves to take care of and provide for them without public charge. In the case of any one treated as a private patient, the commissioners shall appoint some suitable person a special custodian, who shall have authority and whose duty it shall be, in all suitable ways, to restrain, protect and care for such patient in such manner as to best secure his or her safety and comfort, and in such manner as to best protect the persons and property of others. In the case of public patients the commissioners shall require that they be in like manner restrained, protected and cared for by the commissioners of the county, or overseers of the poor, at the expense of the county, and they may accordingly issue their warrants to such commissioners of the county, or overseers of the poor, who shall forthwith comply with the same. If there is no poor-house for the reception of such patients, or if no more suitable place can be found, they may be confined in the county jail in charge of the sheriff. Or said commissioners in their discretion may require that such patients be taken to the asylum of any state that may be designated by the governor, who is hereby authorized and empowered to make the best terms he can with the authorities of any asylum in any state for the admission of such patient or patients.

39. On application to the commissioners on behalf of persons alleged to be insane, and whose admission to the

Ibid § 24

Relatives of patients may pay expenses.

Ibid § 25

Disposition of insane person when accommodations of hospital are insufficient.

Ibid § 26.

Insane per.

hospital is not sought, made substantially in the manner above prescribed, and asking that provisions be made for their care as insane, either public or private, within the county, and on proof of their insanity and need of care as above pointed out, the commissioners may provide for their care, protection and restraint, as in the case of other applications.

40. On information laid before the commissioners of any county that a certain insane person in the county is suffering for want of proper care, they shall forthwith inquire into the matter, and if they find the information well founded, they shall make all needful provision for the care of such person as provided in other cases.

Ibid § 27.
Commissioners shall provide for insane persons suffering for proper care.

41. No person supposed to be insane shall be restrained of his or her liberty by any other person otherwise than in pursuance of authority obtained as herein required, excepting to such extent and such brief period as may be necessary for the safety of persons and property, until such authority can be obtained.

Ibid § 28.
Insane not to be restrained of liberty, except by proper authority.

42. Any person having care of an insane person and restraining such person, either with or without authority, who shall treat such person with wanton severity, harshness or cruelty, or shall in any way abuse such person, shall be guilty of a misdemeanor, besides being liable to an action for damages.

Ibid § 29.
Penalty for cruelty to insane.

43. Insane persons who shall have been under care, either as public or private patients, outside of the hospital, by authority of the commissioners of any county, may, on application to that effect, be transferred to the hospital, whenever they can be admitted thereto, on the warrant of such commissioners. Such admission may be had without another inquest at any time within six months after the inquest already had, unless the commissioners shall deem further inquest advisable.

Ibid § 30.
Insane, who have been under county care, may be transferred.

44. In each case of application for admission to the hospital, correct answers to the following interrogations, so far as they can be obtained, shall accompany the physician's certificate; and if on further examination, after the answers are stated, any of them are

Ibid § 31.
Questions to be answered on application for admission to hospital.

found to be erroneous, the commissioners shall cause them to be corrected.

1st. What is the patient's name? Married or single? If any children, how many? Age of youngest child, and age of patient?

2d. Where was the patient born?

3d. Where is his or her place of residence?

4th. What has been the patient's occupation?

5th. Is this the first attack? If not, when did others occur, and what was their duration?

6th. When was the first symptom of this attack manifested, and in what way?

7th. Does the disease appear to be increasing, decreasing, or stationary?

8th. Is the disease variable, and are there rational intervals? If so, do they occur at regular periods?

9th. On what subject or in what way is derangement now manifested? State fully.

10th. Has the patient shown any disposition to injure others?

11th. Has suicide ever been attempted? If so, in what way? Is the propensity now active?

12th. Is there a disposition to filthy habits, destruction of clothing, breaking glass, etc.?

13th. What relatives, including grandparents and cousins have been insane?

14th. Did the patient manifest any peculiarities of temper, habits, disposition or pursuits, before the accession of the disease? Any predominate passion, religious impressions, etc.?

15th. Has the patient been subject to any bodily disease, epilepsy, suppressed eruptions, discharges of sores, or ever had an injury of the head?

16th. Was the patient ever addicted to intemperance in any form?

17th. Has restraint or confinement been employed? If so, what kind and how long?

18th. What is supposed to be the cause of the disease?

19th. What treatment has been pursued for the relief of the patient? Mention particulars and the effect.

20th. State any other matter supposed to have any bearing on the case.

45. If at any time it may become necessary for want of room or other cause, to discriminate in the general reception of patients into the hospital, a selection shall be made as follows:

*Ibid § 32.
Preference to
be given in
receiving
patients.*

1st. Recent cases, *i. e.*, cases of less than one year's duration.

2d. Chronic cases, *i. e.*, when the disease is of more than one year's duration, presenting the most favorable prospects for recovery, shall be next preferred.

3d. Those for whom application has been longest on file, other things being equal, shall be next preferred.

4th. When cases are equally meritorious in all other respects, the indigent are to be preferred.

46. On a statement in writing, verified by affidavit, addressed to the judge of probate of the county in which the hospital is situated, or of the county in which any certain persons confined in the hospital has his or her legal settlement, alleging that such

*Ibid § 33.
Proceedings
to release pa-
tients alleged
to be not
insane.*

person is not insane and is unjustly deprived of his or her liberty, such judge shall appoint a commission of not more than three persons, in his discretion, to inquire into the merits of the case, one of whom shall be a

*Commission
to inquire.*

physician; and if two or more are appointed, another shall be an attorney. Without first summoning the party to meet them, they shall proceed to the hospital, and have a personal interview with such person, so managed as to prevent him or her, if possible, from suspecting its object; and they shall make any inquiries and examinations they may deem necessary and proper of the officers and records of the hospital, touching the merits of the case. If they shall deem it prudent and advisable they may disclose to the party the object of their visit, and in the presence of such party make further investigation of the matter. They shall forthwith report to the judge of probate, making the appoint-

*And report to
judge.*

ment, the result of their examinations and inquiries. Such report shall be accompanied by a statement of the case and signed by the superintendent. If on such report and statement, and the hearing of the testimony, if any is offered, the judge of probate shall find the person not insane, he shall order his or her discharge. If, on the contrary, he shall so state, and authorize his or her continued detention. The

The finding and order of judge of probate shall be filed. finding and order of the judge of probate, with the report and other papers, shall be filed in his office and entered on his records, and shall forthwith notify the superintendent of his finding and order, and the superintendent shall carry out the order. The commissioners appointed, as provided in this section, shall be entitled to their necessary expenses, and a reasonable compensation to be allowed by said judge of probate, and paid by the territory out of any funds not otherwise appropriated; *provided*, that the applicant shall pay the same if the judge shall find that the application was made without probable grounds, and shall so order.

Ibid § 34. Such proceedings not to be repeated oftener than once in six months. 47. The commission so provided for shall not be repeated oftener than once in six months, in regard to the same party, nor shall such commission be appointed in case of any patient within six months of the time of his or her admission.

Ibid § 35. Insane persons entitled to habeas corpus. 48. All persons confined as insane shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity shall be decided at the hearing, and if the judge or court shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason.

Ibid § 36. Proceedings where patient escapes from hospital. 49. If any patient shall escape from the hospital, the superintendent shall cause immediate search to be made for such patient, and if the patient cannot be found, he shall cause notice of such escape to be forthwith given to the commissioners of insanity of the county where the patient belongs; and if such patient is found in the county, the commissioners shall cause him or her to be returned, and shall issue their warrant therefor as in other cases, unless the patient shall be discharged, or unless for good reasons they shall provide for his or her care otherwise, of which they shall notify the superintendent.

Ibid § 37. Discharge of patient when cured, or when incurable. 50. Any patient who is cured shall be immediately discharged by the superintendent. Upon such discharge the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing, and a sum of money not exceeding twenty dollars (\$20), which

shall be charged with the other expenses, in the hospital, of such patient. The relatives of any patient not susceptible of cure by medical treatment in the hospital, and not dangerous to be at large, shall have the right to take charge of and remove such patient on consent of the board of trustees; *provided*, that in the interim of the meetings of the board the consent of two of the trustees shall be sufficient.

51. On application of the relatives or immediate friends of any patient in the hospital who is not cured, and who cannot be safely allowed to go at liberty, the commissioners of insanity of the county where such patient belongs, on making provision for the care of such patient within the county as in other cases, may authorize his or her discharge therefrom; *provided*, that no patient who may be under charge or conviction of homicide shall be discharged without the order of the board of trustees.

Ibid § 38.
Discharge of
patient before
cure.

52. When patients are discharged from the hospital by the authorities thereof, without application therefor, notice of the order of discharge shall at once be sent to the commissioners of insanity of the county where they belong, and the commissioners shall forthwith cause them to be removed, and shall at once provide for their care in the county, as in other cases, unless such patients are discharged as cured.

Ibid § 39.
Discharge of
patients with-
out applica-
tion.

53. The provisions herein made for the support of the insane at public charge shall not be construed to release the estates of such persons, nor their relatives, from liability for their support, and the commissioners of the several counties are authorized and empowered to collect from the property of such patients, or from any person or persons legally bound for their support, any sums paid by the county in their behalf, as herein provided, and the certificate from the superintendent, and the notice from the auditor of the territory stating the sums charged in such cases, shall be presumptive evidence of the correctness of the sum so stated. If the board of county commissioners, in the case of any insane person who has been supported at the expense of the county, shall deem it a hardship to compel the relatives of such person to bear the burden of his or her support, they may relieve the relatives from any part or all of such burden, as may seem to them reasonable and just.

Ibid § 40.
Liability of
estates of in-
sane persons
for their sup-
port, etc.

54. The commissioners of insanity shall be allowed at the rate of two dollars per day each, for all the time actually employed in the duties of their office. The judge of probate, in addition to what he is entitled to as commissioner of insanity, shall be allowed one-half as much more for making the required record entries in all cases of inquest, and of meetings of the board for any purpose, and for the filing of any papers required to be filed. He shall also be allowed twenty-five cents for such notice or process, given or issued under seal, as herein required. The examining physician shall be entitled to five dollars for each case examined, and mileage at the rate of ten cents per mile each way. The sheriff shall be allowed for his personal service in conveying a patient to the hospital and returning therefrom, at the rate of three dollars per day for the time necessary and actually employed, and mileage the same as allowed in other cases, and for other service the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses in the district court. The compensation and expenses provided for above shall be allowed and paid out of the county treasury in the usual manner, except those of sheriff, which shall be paid out of the territorial treasury in the usual manner. Whenever the commissioners of insanity issue their warrant for the admission of a person to the hospital, and funds to pay the expenses thereof are needed in advance, they shall estimate the probable expense of conveying such person to the hospital, including necessary assistance, including the compensation allowed the sheriff, and on such estimate, certified by the clerk of the commissioners of insanity, the auditor of the territory shall audit the account and shall issue his order on the treasury of the territory in favor of the sheriff or other person entrusted with the execution of such warrant. The sheriff or other person executing such warrant shall accompany said statement with a statement of the expenses incurred, and the excess or deficiency may by said auditor be deducted from or added to his compensation, as the case may be. If the funds are not so advanced, such expenses shall be certified and paid in the manner above prescribed on the admission of such person or persons into the hospital. When the commissioners of insanity order the return of a patient, compensation and ex-

Ibid § 41.
Salary and
fees, how and
by whom
paid.

penses shall in like manner be allowed and paid out of the territorial treasury.

55. Any officer required as herein to perform an act, and any person accepting an appointment under the provisions of this act, and wilfully refusing or neglecting to perform his duty as herein prescribed, shall be guilty of a misdemeanor, besides being liable to an action for damages.

Ibid § 42.
Penalty when officer or person neglects duty.

56. The warrant of the commissioners of insanity authorizing the admission of any person to the hospital as a patient accompanied by a physician's certificate as herein provided, shall operate to shield the superintendent and other officers of the hospital against all liability to prosecution of any kind, on account of the reception and detention of such persons in the hospital; *provided*, such detention shall be otherwise in accordance with the laws and by-laws regulating its management.

Ibid § 43.
Superintendent of hospital not responsible for reception of patients.

57. The superintendent shall affix the seal of the hospital to any notice, order of discharge, report or other paper required to be given or issued by him.

Ibid § 44.
Hospital seal to be affixed.

58. The term "insane" as used in this act includes any species of insanity or mental derangement. The term "idiot" is restricted to persons supposed to be naturally without mind. No idiot shall be admitted into the hospital for insane.

Ibid § 45.
Terms "insane" and "idiot" defined.

59. An act done by a person in a state of insanity cannot be punished as a public offense, nor can a person be tried, adjudged to punishment or punished for a public offense, while he is insane.

R. Code of 1877.
Criminal Procedure. § 614.
Insane cannot be tried.

60. When an indictment is called for trial, or upon conviction the defendant is brought up for judgment, if a doubt arise as to the sanity of the defendant, the court must order a jury to be impaneled, from the jurors summoned and returned for the term, or who may be summoned by direction of the court as provided in sections 303 to 308, both inclusive, to inquire into the fact.

§ 515.
When doubt arises.

61. The trial of the indictment or the pronouncing the judgment, as the case may be, must be suspended until the question of insanity is determined by the verdict of the jury.

§ 516.
Trial to be suspended.

62. The trial of the question of insanity must proceed in the
 § 517. Order of trial. following order :

(1) The counsel for the defendant must open the case and
 Counsel for offer evidence in support of the allegation of insanity.
 defendant.

(2) The counsel for the territory may then open their case
 and offer evidence in support thereof.

(3) The parties may then respectively offer rebutting testi-
 Rebutting mony only, unless the court, for good reason, in
 testimony. furtherance of justice, permit them to offer evidence
 upon their original case.

(4) When the evidence is concluded, unless the case is sub-
 Counsel for mitted to the jury on either side or on both sides,
 the territory. without argument, the counsel for the territory must
 commence, and the defendant or his counsel may conclude the
 argument to the jury.

(5) If the indictment be for an offense punishable with
 Two counsel death, two counsel on each side may argue the cause
 on each side to the jury, in which case they must do so alter-
 may argue in nately. If it be for any other offense, the court may,
 case of death. nately. If it be for any other offense, the court may,
 in its discretion, restrict the argument to one counsel on each
 side.

Court must (6) The court must then charge the jury.
 charge jury.

63. The provisions of sections 345 and 347, in respect to the
 § 518. duty of the court upon questions of law, and of the
 Charge of jury upon questions of fact, and the provisions of
 court. section 377, in respect to the charge of the court to
 Provisions of the jury, upon the trial of an indictment of informa-
 § 345 and § 347 tion, apply to the question of insanity.
 in respect to
 duty of court.

64. If the jury find the defendant sane, the trial of the indict-
 § 519. ment must proceed, or judgment may be pronounced,
 If sane, trial as the case may be.
 proceeds.

65. If the jury find the defendant insane, the trial or judg-
 § 520. ment must be suspended until he becomes sane, and
 If found the court, if it deem his discharge dangerous to the
 insane. public peace or safety, may order that he be, in the meantime,
 committed to the care of the sheriff until he becomes sane.

66. The commitment of the defendant, as mentioned in the
 § 521. last section, exonerates his bail, or entitles a person
 If committed, authorized to receive the property of the defendant,
 bail. to a return of money he may have deposited instead of bail.

67. When he becomes sane the sheriff must thereupon without delay, place him in the proper custody until he ^{§ 522.} be brought to trial or judgment, as the case may be, ^{Restored to} or be legally discharged, ^{sanity.}

68. The expenses of keeping the defendant are in the first instance chargeable to the county, but the county ^{§ 523.} may recover them from the estate of the defendant, ^{Expenses.} if he have any, or from a relative.

DELAWARE.

EXAMINATION AND CARE OF INSANE.

1. Control of insane vested in chancellor; writ and trial.
2. Commitment to Pennsylvania asylum selected by governor; apportionment of counties.
3. Annual report of asylums.
4. New Castle asylum when completed may be selected.
5. Expenses, limit of.
6. Warrant to specify for whose benefit it is drawn.
7. Indigent insane becoming entitled to property liable for support.
8. Transfer of patients to other asylums.
9. Reimbursement of expenses to county.
10. Custody of the insane.
11. Support, counties may contract for.
12. Transfer of indigent insane, contracts and expenses.
13. Indigent insane, how discharged from asylum when cured.
14. Definition of insanity.
15. Suspension of sentence in capital cases, examined by commission.
16. If insane to be remanded to custody; on recovery sentence to be pronounced.
17. Commission of lunacy; appointment, compensation.
18. Fees and expenses, how paid.
19. Fact of insanity found in verdict of acquittal; commitment, and expenses.
20. Discharge of criminal insane in the discretion of court.
21. Insane convicts removed to almshouse.

1. The court of chancery shall have the care of insane persons above the age of twenty-one years, so far as to appoint trustees for such persons, to take charge of them and manage their estates. But before such appointment, the chancellor shall issue a writ to inquire by a jury and determine whether the person named is insane.

Revised code of 1852, amended 1874, tit. 7, ch. 49, p. 240, § 1. Chancellor to appoint trustees of lunatic. Inquisition.

2. Whenever the relatives or friends of any indigent lunatic or insane person, a citizen of this state, shall apply to the chancellor of this state, either personally or by petition, together with the certificate of two practicing physicians of the county wherein such indigent lunatic or insane person shall reside, setting forth the fact of such lunacy or insanity, the cause or causes thereof, if known, and the necessity, in their opinion, of a better and more efficient mode of medical treatment in such case than can be afforded in the county almshouse of the state, the chancellor shall, if satisfied with the proofs offered of such lunacy or insanity, and also of the indigency of the person on whose

Act of 1871, vol. 14, ch. 57, § 1. How lunatics may be removed to a Pennsylvania hospital.

behalf the application may be made, recommend, in writing, to the governor, that such indigent lunatic or insane person be removed to such asylum, hospital, or institution for the insane in the state of Pennsylvania as the governor shall hereafter select; *provided*, that not more than five indigent lunatics or insane persons from the county of New Castle, and that not more than five indigent lunatics or insane persons from each of the counties of Kent and Sussex shall be in the said asylum, hospital, or institution at the same time.

Not more than five from New Castle county, Kent or Sussex.

3. The governor shall request from the said asylum, hospital or institution, an annual report, with the details, respecting the indigent lunatics or insane persons from this state, their number, names, residences, condition, mode of treatment respectively, prospect of cure, benefit or improvement and the expenditures in their behalf; and he shall transmit the same to the legislature at its biennial sessions.

Ibid § 5, as amended by act of 1881, vol. 16, ch. 378, §1. Governor shall request annual report from asylum.

4. If, in the opinion of the governor, the insane asylum now in course of erection in New Castle county shall, upon its completion and equipment, and when the occasion arises for the exercise of the power herein granted, afford satisfactory facilities for the treatment of any indigent insane person in behalf of whom an application is made, under chapter 57 of vol. 14 of laws of Delaware, and the supplements and amendments thereto, he may select the said insane asylum as the place to which such insane person or persons shall be sent, in lieu of an asylum for the insane in the state of Pennsylvania. In such case all the provisions of the said act, and the supplements and amendments thereto shall be applicable, except such as may be inconsistent with the provisions of this section.

Act of 1883, vol. 17, ch. 76 §2. Governor may select, when completed, New Castle insane asylum for indigent insane.

In lieu of asylum in Penn'a.

5. The governor is hereby authorized and empowered to draw his warrant on the treasurer of the poor of the county wherein such indigent lunatics or insane persons shall have their residence at the time of their removal to the said asylum, hospital, or institution, in favor of the proper authorities of the said asylum, hospital, or institution, for such amount for each indigent

Act of 1871, vol. 14, ch. 57, §2. Governor authorized to draw his warrant on poor-treasurer.

lunatic or insane person as shall be necessary for his or her maintenance and proper medical treatment in the said asylum, hospital, or institution; *provided*, that such amount shall not exceed the sum of two hundred and fifty dollars annually for each indigent lunatic or insane person so maintained and treated; and that no more than the sum of twelve hundred and fifty dollars shall be paid by New Castle county, and that no more than twelve hundred and fifty dollars each shall be paid by Kent and Sussex counties to the said asylum, hospital, or institution in any one year.

Amount drawn
not to exceed
\$250 for each
lunatic.

Nor more than
\$1250 to be
paid by each
county.

6. The governor's warrant shall specify the name and residence of the indigent lunatic or insane person for whose benefit it shall be drawn, as aforesaid, and the amount paid by its direction, as aforesaid, shall be allowed and credited to the treasurer of the poor in rendering his account to the trustees of the poor of his county, when required by them so to do; and also in his annual settlements with the levy court and with the auditor; and the said warrant shall be his voucher for the disbursement of the sum therein specified.

Ibid § 4.
Warrant, what
to specify.

Warrant shall
be a voucher.

7. If, after the removal to and during the residence of any indigent lunatic or insane person in the said asylum, hospital, or institution under the provisions of this act, he or she shall become entitled to any property in possession, whether real or personal, by descent, gift, grant, or in any other manner whatsoever, the annual income and profits whereof shall be sufficient for his or her individual support, upon proof of such possession being made to the chancellor, he shall appoint a trustee to take charge of and manage the estate of such lunatic or insane person, and the said trustee shall enter into recognizance with surety, as the chancellor shall require, for the faithful discharge of his duty, and shall furthermore perform the same duties, and be subject to the same responsibilities, as are described and particularized in chapter 49 of the revised statutes of the state of Delaware relating to the care of insane persons above the age of twenty-one years, and the chancellor may, in his discretion, require that the said lunatic or insane person be retained in the said asylum, hospital, or institution at

Ibid § 6.
Chancellor to
appoint trustee
to take charge
of and manage
the estate of
lunatics.

Trustees shall
enter into
recognizance.

Chancellor
may require
the lunatic to
be retained at
his own ex-
pense.

his own proper cost and expense. Such action in the premises shall create a vacancy in favor of the county from Vacancy. which the said lunatic or insane person was removed; *provided*, that nothing in this section relating to the appointment of a trustee as aforesaid shall be construed to supplant, infringe upon or affect the rights of parents or guardians when any lunatic or insane person, becoming entitled to property as aforesaid shall be a minor under the age of twenty-one years. Proviso. Nothing shall be construed to infringe the rights of the parents of minors.

8. Nothing contained in this act shall be construed a repeal in whole or in part or as in anywise affecting the existence of force of section 23, chapter 48 of the revised statutes of Delaware concerning the transfer of insane poor to any asylum, hospital or institution for the insane within the United States; but the said section shall be taken to be concurrent and co-existent with this act. Ibid § 7. Nothing contained shall be a repeal.

9. If any insane person, supported in the almshouse, or for whom the trustees of the poor shall be at any expenses, shall have any real or personal property, the said trustees may, from time to time, present their account and petition for reimbursement to the superior court; and the said court, upon hearing the case in a summary way, shall enter judgment for such sum as will reimburse such expenses; which judgment shall, from its date, be a lien, as other judgments of the said court, and may be executed in the same way, *except* that to every writ of *feri facias* issued thereon, there shall be a clause for summoning garnishees; *and, also*, that any real estate of such insane person, bound thereby, may, for want of sufficient personal property, be sold without inquisition whether the clear yearly rents and profits thereof will be sufficient, in seven years, to pay such judgment; and such sale shall have the same effect as other sales of land on judgment and execution, and shall convey the same title to the purchaser. Ch. 48, § 22. Remedy for charges incurred for the insane. Judgment. Execution. Attachment. Sals. Title.

If a part only of the real estate, levied on under such judgment, be sold, that fact shall be returned, and other writs of venditioni exponas may be issued for further sale to satisfy that, or any other judgments recovered as aforesaid, as may be necessary.

The proceeds of any such judgment, or execution, attachment, or sale, shall be applied according to legal priority. Any money applicable to such judgment, shall be paid to the treasurer of the poor, and any excess shall be paid into said court; which payment shall discharge the sheriff, or person, paying the same.

If the amounts admitted, or found due from garnishees, exceed the amount of any judgment against the insane person, judgments shall, notwithstanding, be rendered against them for the sums so due from them respectively; and the excess shall be paid into court. Such judgment shall not, before payment, be any discharge to the garnishee, nor any defence for him, nor for any other person legally bound to reimburse such expenses. Any such garnishee may pay into court any sum admitted or found due from him to such insane person; and such payment shall be a discharge of the debt.

All money, so paid into court, shall be applicable to any judgments obtained, or that may be obtained as aforesaid, to reimburse the expenses incurred for such insane person.

10. The overseer shall receive and safely keep all insane persons committed to his charge by order of the levy court. If he permit any person to be in the almshouse who ought not to be there, he shall be liable to pay the corporation double the cost of such person's support.

11. It shall be lawful for the trustees of the poor of any county to contract with the trustees of the poor of any other county in the state for the care and treatment of any indigent insane person or persons in such first mentioned county upon such terms and conditions as they may mutually agree upon. If such contract be made, it shall be the duty of the trustees of the poor so contracting to send such insane persons to another county to pay such sum or sums as they may contract to pay in accordance with their agreement; and such insane person or persons shall, during the time of remaining in the county to which he, she, or they is or are sent, be subject to the rules, regulations or control of the trustees of the poor in that county to the same extent as the indigent insane of such county.

Proceeds.

Judgment
against gar-
nishees.

Effect of

Payment into
court.

Application of
money.

Ch. 48, § 8.
Custody of the
insane.

Act of 1883,
Vol. 17, ch. 76,
§ 1.
Contracts of
trustees of the
poor of one
county with
trustees of the
poor of another
county.

Duties of the
trustees.

Government
of the insane.

12. The trustees of the poor of the several counties are required, on the recommendation of the chancellor and the resident associate judge in either county, to cause any of the insane poor of their county, whether in or out of the almshouse, to be removed to any hospital, asylum or institution for the insane in the United States; and for this purpose, to make contracts with such institution for admission into the same; and the said trustees are authorized to defray, in the whole or part, the expenses of such removal, and of the keeping and supporting the person, so removed, in such institution, so long as they may judge proper to do so.

Ch. 48, § 23.
Transfer of
the insane to
asylum.

Expense.

13. Whenever the principal physician of the said asylum, hospital or institution shall represent, in writing to the governor of this state that any indigent lunatic or insane person, so removed from this state, has been cured by the treatment prescribed in his or her behalf, or so far benefited and improved in condition as to render his or her further residence in the said asylum, hospital or institution unnecessary, or that said indigent lunatic or insane person has not for one year past manifested any marked improvement in his or her condition then such indigent lunatic or insane person, upon the written request of the governor addressed to the proper authorities of the said asylum, hospital or institution, shall be discharged from a residence in the said asylum, hospital or institution under the provisions of this act.

Act of 1871,
vol. 14, ch. 57,
§ 3, as amended
by act of
'73, vol. 15,
ch. 57.
How such in-
digent insane
person is to be
discharged.

14. The words "insane person" shall be construed to include every idiot, non-compos and lunatic person.

Rule 5, ch. 5.

15. Whenever, in a capital case, it shall appear to the court in any manner that the prisoner has become insane after conviction and before sentence, the said court shall have power, with a view of informing its own mind upon the subject, to appoint a commission, to be composed of experienced and practical men, two at least of whom shall be practicing physicians, to inquire of the mental condition of such prisoner and make report of their finding to the said court, within one month from the date of their appointment, by writing, under their hands and seals. They shall have power to examine wit-

Act of 1883,
vol. 17, ch. 79,
§ 1. When
court may ap-
point commis-
sion to inquire
into mental
condition of
patients.
Report, when
made.

Powers of commission. nesses on oath, and to order the taking of testimony out of the state by commission, to be issued in the usual form by the clerk of the court of oyer and terminer.

Ibid § 2. When prisoner remanded, sentence pronounced. 16. Should the report of the commission be that the prisoner is insane, he shall be remanded to the custody of the sheriff until the further order of the court. Should he recover his reason after such remand, he shall receive the sentence appointed for his crime. And to avoid any unnecessary delay or uncertainty, the court trying the prisoner shall adjourn from term to term of the court of general sessions of the peace and jail delivery until sentence can properly be passed. Whether he have so recovered his reason may be established to the court by any evidence it may choose to consider for that purpose, and need not be by commission.

Ibid § 3. Notification to appoint commission. 17. The clerk of the court, upon the appointment of a commission, shall forthwith notify the members of it by a paper, to be delivered to each by the sheriff, under the hand of the clerk and the seal of the court, and the commission shall be issued to them and be delivered by the sheriff to one of them within one week after their appointment. They shall receive for their services a reasonable compensation, in the discretion of the court, not to exceed sixty dollars, to be paid by the county treasurer upon orders under the seal of the court, countersigned by a judge of the court; and the provisions of this act shall apply to cases where any person shall have been already convicted and not yet sentenced as well as to cases that may occur after the passage of this act.

Ibid § 4. Fees of witnesses and officers. 18. The fees of witnesses, sheriff and clerk, and the expenses of a commission to take depositions, shall be the same as in cases of similar service, to be paid as other state costs are in capital cases.

Act of 1857, vol. 11, ch. 397, § 1, as amended by act of 1883, vol. 17, ch. 75. Provisions in case of insane charged with crime punishable with death. 19. If upon the trial of any person upon any indictment in the court of oyer and terminer, or in the court of general sessions of the peace and jail delivery of this state, the defense of insanity shall be made and established to the satisfaction of the jury empanelled on said trial, and the fact charged shall be proved, it shall be the duty of the jury to return a

verdict of "not guilty by reason of insanity," and upon the rendition of such verdict, the court, before which the issue shall have been tried, may upon motion of the attorney-general, order that the person so acquitted shall forthwith be committed, by the sheriff, to the keeper of the almshouse of the county wherein the case was tried, or of the county of the residence of said insane person, or the court may order such person to be placed in any lunatic asylum, or institution for insane persons in the United States. For this purpose the same court may appoint a trustee, whose duty it shall be to contract with any such asylum or institution for the admission and support of such insane person. The expenses of the removal of such insane person, and of his admission into and support at such asylum or institution, shall be borne by the trustee of the poor of the county where the act charged was committed, or of the county of such insane person's residence; but if any such insane person shall have any real or personal estate, said trustee of the poor may have for the expenses and charges so incurred as aforesaid, the same remedy as is provided in section 22 of chapter 48 of the revised statutes of this state in the case of insane persons supported in the county almshouse.

Trustee to be appointed.
His duty, expenses; how defrayed.

Remedy of trustee of poor.

20. The court of general sessions of the peace and jail delivery of the county wherein such case shall have been tried, may order that such insane person charged and acquitted as aforesaid, shall be set at large whenever they shall be satisfied that the public safety will not be thereby endangered, or may order such person to be removed from any such asylum or institution to the almshouse of the county where he resided at the time of the commission of the act charged in the indictment, or of the county where the act charged was committed.

Ibid § 2.
Discretionary powers of court of gen. sessions.

21. When any insane person shall be confined in jail, it shall be lawful for the levy court to issue an order to a constable, commanding him to demand and receive from the sheriff such insane person, and deliver him at the almshouse to the keeper thereof; and the constable shall forthwith obey said order; and if the sentence of any convict shall be respited, on the ground of insanity, such convict

Ch. 8, § 31.
Custody of the insane.

shall be subject to removal to the almshouse under such an order.

The levy court of the county from which any insane poor person shall have been removed under the provisions of chapter 48, shall allow to the trustees of the poor, in their settlement with said court, the charges and expenses defrayed and paid in such removal.

DISTRICT OF COLUMBIA.

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| <ol style="list-style-type: none"> 1. Establishment of government asylum. 2. Superintendent, appointment, qualifications, powers and duties. 3. Board of visitors. 4. President of board of visitors. 5. Inspection of asylum. 6. Who may be admitted. 7. Admission confined to whom. 8. Marine hospital-service, entitled to admission, charges. 9. Naval insane supported at discretion of secretary. 10. Inmates of the National Home admitted; support of. 11. Admission of indigent insane of the District of Columbia. 12. Requisites for admission. 13. Physician's certificate and affidavit of householders. 14. Applications by board of visitors. 15. Arrest, commitment and expenses. 16. Support, inquiry into ability. 17. Temporary support of non-residents. 18. Private patients, charges for. | <ol style="list-style-type: none"> 19. Examination, physician's certificate and admission. 20. Removal of patients by relatives. 21. Definition of terms. 22. Disbursement of appropriations. 23. Support, one-half of paid by District of Columbia. 24. To be deducted from appropriations. 25. Insane not to be confined in jail. <p style="text-align: center;">CRIMINAL INSANE.</p> <ol style="list-style-type: none"> 26. Fact of insanity certified by court; commitment, support, liability for. 27. Insane convicts, when committed to asylum. 28. Criminals confined in asylum, to be remanded to custody on recovery. 29. Insane convicts, may be transferred to government asylum. 30. Insane convicts may be confined in state asylum, compensation for care of. 31. On recovery to be remanded to prison; sanity, how determined. |
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1. There shall be in the District of Columbia a government hospital for the insane, and its objects shall be the most humane care and enlightened curative treatment of the insane of the army and navy of the United States and of the District of Columbia.

Rev. Stat. of
U. S., 1878,
§ 4838.
Establish-
ment of the
government
hospital for
the insane.

2. The chief executive officer of the hospital for the insane shall be a superintendent, who shall be appointed by the secretary of the interior, and shall be entitled to a salary of four thousand dollars a year, and shall give bond for the faithful performance of his duties, in such sum and with such securities as may be required by the secretary of the interior. The superintendent shall be a well-educated physician, possessing competent experience in the care and treatment of the insane; he shall reside on the premises, and devote his whole time to the welfare of the institution; he shall, subject to the approval of the visitors,

§ 4839,
as amended
by act of 1881,
ch. 132, § 1.
The superin-
tendent.

engage and discharge all needful and usual employes in the care of the insane, and all laborers on the farm, and determine their wages and duties; he shall be the responsible disbursing agent of the institution, and shall be *ex-officio* secretary of the board of visitors.

3. Nine citizens of the District of Columbia, to be appointed § 4840.
Board of
visitors. by the president, shall constitute a board of visitors of the hospital for the insane. The term of office of three visitors shall expire biennially on the thirtieth day of June in every alternate year, dating from the thirtieth day of June, eighteen hundred and fifty-seven. Should any vacancy occur by death, resignation, or otherwise, it shall be filled by appointment for the unexpired term of such visitor. The office of visitor shall be honorary and without compensation.

4. The board of visitors shall select from their number a § 4841.
President of
the board of
visitors. president, to preside at their meetings for one year, or until a successor is elected.

5. The board of visitors, subject to the approval of the secretary of the interior, may make any needful by-laws § 4842.
Powers and
duties of the
board of
visitors. for the government of themselves, and of the superintendent and his employes, and of the patients, not inconsistent with law; they shall visit the hospital at stated periods, and exercise so careful a supervision over its expenditures and general operations that the government and community may have confidence in the correctness of its management; they shall make annually to the secretary of the interior a report for the preceding fiscal year setting forth the condition and wants of the institution.

6. The superintendent, upon the order of the secretary of war, of the secretary of the navy, and of the secretary of the treasury, respectively, shall receive § 4843.
Admission of
insane persons
of the
army, navy,
marine corps,
etc. and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

(1) Insane persons belonging to the army, navy, marine corps, and revenue cutter service.

(2) Civilians employed in the quartermaster's and subsistence departments of the army who may be, or may hereafter become, insane while in such employment.

(3) Men who, while in the service of the United States, in

the army, navy, or marine corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

(4) Indigent insane persons who have been in either of the said services, and been discharged therefrom on account of disability arising from such insanity.

(5) Indigent insane persons who have become insane within three years after their discharge from such service, from causes which arose during and were produced by said service.

7. Hereafter the admissions to the government hospital for the insane, shall be limited to such persons as are entitled to treatment therein under the provisions of title fifty-nine, chapter four, of the Revised Statutes of the United States, and under the act approved March third, eighteen hundred and seventy-five, chapter one hundred and fifty-six, second session, forty-third congress. [§§ 4843-4854.]

R. S. Supl.
Laws of 1880,
ch. 235, par. 2.
Who may be
admitted to
hospital for in-
sane in Dis-
trict of Co-
lumbia.

8. Insane patients of said service (marine hospital-service) shall be admitted into the government hospital for the insane upon the order of the secretary of the treasury, and shall be cared for therein until cured or until removed by the same authority; and the charge for each such patient shall not exceed four dollars and fifty cents a week, which charge shall be paid out of the marine hospital fund.

R. S. Supl.
Laws of 1875,
ch. 156, § 5,
amendment
to § 4843
In marine hos-
pital-service
patients may
be admitted to
Government
Hospital for
Insane; charge
therefor.

9. The secretary of the navy may cause persons in the naval service or marine corps, who become insane while in the service, to be placed in such hospital for the insane as, in his opinion, will be most convenient and best calculated to promise a restoration of reason. And he may pay to any such hospital, other than the government hospital for the insane in the District of Columbia, the pay which may from time to time be due to such insane person, and he may, in addition thereto, pay to such institution, from the annual appropriation for the naval service, under the head of contingent enumerated, any deficiency of a reasonable expense, not exceeding one hundred dollars per annum.

§ 1551.
Insane of the
navy.

10. * * * In addition to the persons now entitled to admission to said hospital [government hospital for the insane], any inmate of the National Home for Disabled Volunteer Soldiers, who is now or may hereafter become insane shall, upon an order of the president of the board of managers of the said National Home, be admitted to said hospital and treated therein; and if any inmate so admitted from said National Home is or thereafter becomes a pensioner, and has neither wife, minor child, nor parent dependent on him, in whole or in part, for support, his arrears of pension and his pension money accruing during the period he shall remain in said hospital shall be applied to his support in said hospital, and be paid over to the proper officer of said institution for the general uses thereof.

Act of 1882,
ch. 433,
sess. 1, p. 330,
amendment to
§ 4843.

11. All indigent insane persons residing in the District of Columbia at the time they became insane shall be entitled to the benefits of the hospital for the insane and shall be admitted on the authority of the secretary of the interior, which he may grant after due process of law showing the person to be insane and unable to support himself and family, or himself, if he has no family, under the visitation of insanity.

§ 4844.
Admission of
the indigent
insane of the
District of
Columbia.

12. The secretary of the interior may grant an order for the admission into the hospital of any insane person not charged with a breach of the peace, when he shall receive the certificate, as provided in the next section, of any judge of the supreme court for the District of Columbia, or of any justice of the peace of the district, and an application in writing, as provided in the next section, by a member of the board of visitors, requesting that such order may be issued.

§ 4845.
Order of ad-
mission.

13. It must appear by the certificate aforesaid that two respectable physicians, residents of the district, appeared before said judge or justice and deposed, in writing sworn to and subscribed by them, that they knew the person alleged to be insane; that, from personal examination, they believed such person to be in fact insane, and a fit subject for treatment in said hospital, and that said person was a resident of the district at the time he or she was seized with the mental disorder under which he or she then labored. And it must further appear, by such certificate,

§ 4846.
Certificate of
judge or jus-
tice.

that two respectable householders, residents of the district, appeared before said judge or justice and deposed, in writing sworn to and subscribed by them, that they knew the person alleged to be insane, and that, from a personal examination of his or her affairs, they believed said person to be unable, under the visitation of insanity, to support himself, or herself, and family, in case such person have a family, or to support himself or herself alone, in case such person have no family, and unable to pay his or her board and other expenses in the hospital. The affidavits of said physicians and householders shall accompany the certificate of said judge or justice of the peace.

14. The application by a member of the board of visitors must be made within five days after the date of the affidavits aforesaid, and it must appear therein that the visitor made the application after an inspection of the affidavits and certificate. It shall be the duty of such visitor to withhold his application, if he has reason to doubt the indigence of the party in whose behalf the application is desired, until his doubt is removed by satisfactory testimony.

15. The order of the secretary of the interior, granted upon the certificate of a judge or justice and the application of a member of the board of visitors, shall authorize any police officer or constable to assist in carrying such indigent insane person to the hospital, whenever such assistance is represented to be necessary by the person holding the order; but all the expenses of witnesses before the judge or justice of the peace, and of carrying such patient to the hospital, shall be borne by his friends, or by the local authorities of the district.

16. Whenever it appears in the case of any insane person whose insanity commenced while he was a resident of the District of Columbia that he is able to defray a portion, but not the whole of the expenses of his support and treatment in the government hospital for the insane, the board of visitors of the hospital is authorized to inquire into the facts of the case; and if it appears to the board, upon such an inquiry, that such insane person has property and no family, or has more property than is required for the support of his family, then, as a condition upon which such insane person, admitted or to be admitted upon the

§ 4847.
Application
by visitor.

§ 4848.
Conveyance
to hospital.

§ 4849.
Admission of
insane persons
having
property.

order of the secretary of the interior, shall receive or continue to receive the benefits of the hospital, there shall be paid to the superintendent from the income, property, or estate of such insane person such portion of his expenses in the hospital as a majority of the board shall determine to be just and reasonable, under all the circumstances.

17. Any indigent insane person who did not reside in the district at the time he became insane, may, in like manner, upon the certificate of a judge or justice and the application of a member of the board of visitors, be admitted into the hospital upon the application of the governor of the district, and at the expense of the district during the continuance of such insane person therein, it being hereby designed to give the superintendent thereof authority to take charge of such insane person until the governor can discover who his friends are, or whence he came, with a view to the return of such person to such friends, or to the place of his residence, and thus relieve the district of the expense and charge of such indigent insane non-resident.*

18. Whenever there are vacancies, private patients from the district may be received at a rate of board to be determined by the visitors, to be in no case less than the actual cost of their support.

19. The independent or pay patients may be received into the hospital for the insane on the certificate of two respectable physicians of the district, stating that they have personally examined the patient, and believe him to be insane, at the time of giving the certificate, and a fit subject for treatment in the institution, accompanied by a written request for the admission from the nearest relatives, legal guardian, or friend of the patient, where he may remain until restored to reason. The friends of the patient shall comply with the regulations of the hospital in respect to payment of board, and in all other respects. The request for admission must be made within five days of the date of the certificate of insanity.

* By statute of June 20th, 1874, ch. 337, § 2, vol. 18, p. 116, the office of governor was abolished, and the powers theretofore exercised by that officer were conferred upon the commissioners whose appointment was therein authorized, subject only to the limitations contained in the statute of 1874.

20. If any person will give bond with sufficient security, to be approved by the supreme court of the District of Columbia, or by any judge thereof in vacation, payable to the United States, with condition to restrain and take care of any independent or indigent insane person not charged with a breach of the peace, whether in the hospital or not, until the insane person is restored to sanity, such court or judge thereof may deliver such insane person to the party giving such bond.

§ 4856.
Discharge of
patients upon
bond.

21. In determining the meaning of the revised statutes, or of any act or resolution of congress passed subsequent to February twenty-fifth, eighteen hundred and seventy-one, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; the words "insane person" and "lunatic" shall include every idiot, non-compos, lunatic, and insane person; the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form.

Rev. Stat. of
U. S., 1878. § 1.
Definitions.

22. All appropriations of money by congress for the support of the hospital for the insane shall be drawn from the treasury on the requisition of the secretary of the interior, and shall be disbursed and accounted for in all respects according to the laws regulating ordinary disbursements of public money.

§ 4858.
Disbursement
of appropriations
for the
insane.

23. One-half of the expense of the indigent persons who may be hereafter admitted (to the government hospital for the insane) from the District of Columbia shall be paid from the treasury of said district; *provided*, that hereafter such indigent persons shall be admitted only upon order of the executive authority of the said district.

R. S., Supl.
Laws of 1877,
ch. 105, par. 2.
District of
Columbia to
pay half ex-
pense of indi-
gent insane
committed to
hospital.

24. * * * One-half of the expense of the indigent patients from the District of Columbia shall be reported to the treasury

R. S., Supl. Laws of 1879, ch. 182, par. 11. Half of support to be paid District of Columbia. department, and charged against the appropriations to be paid toward the expenses of the district by the general government, without regard to the date of their admission.

25. No insane person not charged with any breach of the peace shall ever be confined in the United States jail in the District of Columbia.

§ 4851. Admission of insane person accused of crime. 26. If any person, charged with crime, be found, in the court before which he is so charged, to be an insane person, such court shall certify the same to the secretary of the interior, who may order such person to be confined in the hospital for the insane, and, if he be not indigent, he and his estate shall be charged with expenses of his support in the hospital.

§ 4852. Insane convicts. 27. Any person becoming insane during the continuance of his sentence in the United States penitentiary shall have the same privilege of treatment in the hospital during the continuance of his mental disorder, as is granted in the preceding section to persons who escape the consequences of criminal acts by reason of insanity, unless it be the opinion, both of the physician to the penitentiary and the superintendent of the hospital, that such insane convict is so depraved and furious in his character as to render his custody in the hospital insecure, and his example pernicious.

§ 4855. Delivery of insane criminals restored to sanity. 28. When any person confined in the hospital for the insane charged with crime and subject to be tried therefor, or convicted of crime and undergoing sentence therefor, shall be restored to sanity, the superintendent of the hospital shall give notice thereof to the judge of the criminal court, and deliver him to the court in obedience to the proper precept.

R. S. Supl. Laws of 1874, ch. 465, § 1, as amended by act of 1882, ch. 433, sess. 1, p. 330. Insane convicts may be transferred to hospital for insane in District Columbia 29. Upon the application of the attorney-general the secretary of the interior is hereby, authorized and directed to transfer to the government hospital for the insane in the District of Columbia all persons who, having been charged with offenses against the United States, are in the actual custody of its officers, and all persons who have been or shall be convicted of any offense in a court of the United States and are imprisoned in any state prison or penitentiary of

any state or territory, and who during the term of their imprisonment have or shall become and be insane.

30. In all cases where any person convicted in a court of the United States shall, while imprisoned under such conviction in any state prison or penitentiary, become and be insane, and there shall not be accommodation for such insane person at the insane asylum of the District of Columbia, or if for other reasons the attorney-general is of opinion that such insane person should be placed at a state insane asylum rather than at said district asylum, then the attorney-general shall have power, in his discretion, to contract with any state insane or lunatic asylum within the state in which such convict is imprisoned, for his care and custody while remaining so insane; and in all cases where such convicts shall have heretofore been, or shall hereafter be, transferred to a state asylum for insane convicts, in accordance with the laws of such state, the attorney-general is hereby authorized and directed to compensate the said asylum, or the proper authorities controlling the same, for the care and custody of such insane convicts, until their removal or discharge, in such amounts as he shall deem just and reasonable; but no contract shall be made or compensation paid for the care of such insane person beyond their respective terms of imprisonment.

Ibid § 2.
Attorney-general may contract with state asylums for care of insane.

To compensate asylums therefor.

31. Whenever such insane convict shall be restored to sanity, after he or she shall have been transferred under the provisions of this act, he or she shall be returned to the prison or penitentiary from which the transfer was made, provided the term of imprisonment shall not have expired. The questions of sanity in all cases arising under this act shall be determined in accordance with the rules and regulations of existing laws, state or national, on that subject, applicable to the prison, penitentiary, or asylum where such convict shall be confined.

Ibid § 3.
Convicts restored to sanity to be returned to prison.

Sanity, how determined.

FLORIDA.

GOVERNMENT OF ASYLUM.

1. Asylums to be fostered.
2. Establishment of asylum.
3. Government vested in physician and the board of commissioners of state institutions.
4. Superintendent, powers and duties, salary.
5. Employees, salaries.

ADMISSION AND DISCHARGE.

6. Insane to be cared for by counties.
7. Arrest of insane.
8. Examination, order of judge.
9. Liability for support.
10. Commitment to asylum or other custody, expenses of, how paid.
11. Census of insane, investigation report, examination.

12. Private support, compensation for, transfer to asylum, when compensation not accepted.
13. Insane brought before court.
14. Support of indigent insane in asylum.
15. Care of patients to be impartial.
16. Charges to be prescribed by commissioners.
17. Bond for support.
18. Physician's fees.

CRIMINAL INSANE.

19. Physician of penitentiary to act in asylum.
20. To attend insane convicts.
21. Criminal insane when acquitted to be subject to the order of the court.

1. Institutions for the benefit of the insane, blind and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be provided by law.

McClelland's Digest of '81, ch. 147. § 1.
Constitution, art. 10.
Institutions for blind, insane and deaf to be fostered.

2. The governor of this state is required to set apart a portion of the public buildings of this state in Chattahoochee, in Gadsden county, for the purpose of an indigent lunatic asylum, to which all indigent persons who may be found to be insane, lunatic or non compos mentis, by the courts of this state having jurisdiction of the subject, may be confined for safe keeping and treatment.

Ibid § 16.
Portion of state buildings to be set aside for lunatic asylum.

3. The physician of the asylum shall have sole supervision of, and immediate superintendence of the asylum for indigent lunatics of the state, subject to the direction of the board of commissioners of state institutions.

Ibid § 17.
Physician's powers.

4. The physician and superintendent of the asylum shall be appointed by the board of commissioners of state institutions, and shall be a man of good moral

Ibid § 18.
Appointment.

character, experienced in the management of lunatics, and qualified as a physician; he shall hold his office for the term of two years from the date of his appointment, unless sooner removed by the board of commissioners for incompetency, neglect or improper conduct; he shall exercise such powers in control of the inmates of the asylum and in conduct of the institution as shall be determined between him and the board of commissioners, and shall receive such salary, not exceeding two thousand dollars per annum, as the board shall prescribe.

Qualification.

Tenure.

Powers.

Salary.

5. The said board shall regulate the number and the compensation of the employes of such asylum, and prescribe the duties to be performed by them.

Ibid § 20.
Compensation.

6. The respective counties of the state shall provide, in the manner fixed by law for those of the inhabitants who by reason of age, infirmity or misfortune may have claims upon the aid and sympathy of society.

Ibid § 2.
Counties to
provide for
the poor.

7. Whenever it shall be suggested, by petition or otherwise, to any judge of the circuit court of this state, that there is any lunatic or insane person within the limits of the judicial circuit of said judge, incapable of managing his or her own affairs, or of taking care of himself or herself, it shall be the duty of said judge to issue a writ to the sheriff of the county wherein such lunatic or insane person is alleged to be, directing him to bring such person before him for the purpose of inquiring into the alleged fact of lunacy or insanity.

Ibid § 3.
Duty of cir-
cuit judge on
suggestion of
lunacy.Inquiry
therein.

8. If it shall be found, upon investigation, that such person is a lunatic, or insane, the judge shall pass such order or decree as is usual or necessary in such cases.

Ibid § 4.
Order on find-
ing of lunacy.

9. If it shall appear that such lunatic or insane person has sufficient estate to support him or her, the decree made by the judge shall bind said estate.

Ibid § 5. Decree
to bind estate of
lunatics.

10. If it shall appear that said lunatic or insane person is destitute, then the judge shall direct and order that the sheriff shall transport such lunatic or insane person to the asylum for the indigent lunatics of the state of Florida, and there deliver such lunatic or insane person to the officer having charge of the same, for the

Ibid § 6.
Order for
lunatic to be
taken to
asylum.

purpose of his care, custody and treatment; *provided, however,* that the judge may, in his discretion, direct the said lunatic or insane person to be delivered to any other person for his care, custody, and maintenance, in which event the said insane person shall be so delivered, and it shall be the duty of the person to whom such delivery is made to provide for his care, custody and maintenance. For such care, custody and maintenance the said person shall receive not exceeding the sum of one hundred and fifty dollars per annum, to be fixed by the judge and paid by the treasurer upon a warrant of the comptroller drawn against the appropriation for the maintenance of lunatics.

11. It shall be the duty of the comptroller, once in every six months, to forward to the state attorney of each circuit a list of the lunatics in the care of private persons in the several counties in his circuit; and it shall be the duty of the state attorney to cause an investigation to be had into the merits of each case by the grand juries of the several counties at the next term of the court. Upon the presentation of each case to the grand jury, it shall be their duty to inquire into the same, causing each of said lunatics to be brought before them by the sheriff of the county, and to make a report of the true condition of all such lunatics. A copy of this report shall be forwarded by the state attorney to the attorney-general and the comptroller. In all cases where the attorney-general shall deem it proper, he shall direct the state attorney to institute proceedings before the judge of the circuit court looking to the change of the custody of said lunatic, or to his final discharge from such care and custody, or to his transfer to the state asylum; and the said judge shall make such order in the premises as to him shall seem just and right.

12. The sum allowed to any private person for the care and custody of any lunatic shall not exceed one hundred and fifty dollars per annum, and no other or further sum shall be allowed for such service. In the event the sum herein allowed is not accepted by such person, the judge of the circuit court shall direct the transfer of the lunatic to the state asylum or his discharge, upon petition filed by such person.

Order for private care of lunatics.

Compensation, how paid.

Ibid § 7. Comptroller to forward lists of lunatics to state attorneys.

Investigation by grand jury.

Report to attorney general and comptroller.

Proceedings for change of, or release from custody.

Ibid § 8. Compensation and proceedings when not accepted.

13. Upon the filing of a *præcipe* to that effect in the clerk's office by the state attorney, or upon the order of the judge, the clerk shall issue a writ commanding the sheriff to bring before the court or the grand jury any person alleged to be a lunatic or insane person, and the sheriff shall execute such process. The clerk and sheriff shall receive for such service such compensation as is now allowed by law for the issuing and service of a *capias*.

Ibid § 9.
Sheriff to
bring lunatic
before court
or grand jury.

Compensa-
tion.

14. It shall be lawful for the physician in charge of the asylum for indigent lunatics of the state of Florida, when directed by the board of commissioners of state institutions, to receive into said asylum any lunatic, idiot or insane person whose friends, parents, or guardians, are able and willing to pay for the care, and custody, and maintenance of said lunatic, idiot, or insane person.

Ibid § 12.
Care of luna-
tics for pay.

15. Such lunatic, idiot, or insane person shall receive all care, food, clothing and medical attention, as he or she may demand and require, from the physician and other employes of the asylum.

Ibid § 13.
Attention, etc.

16. The board of commissioners of state institutions shall, in all such cases, prescribe what amount shall be paid by the friends, parents or guardians of any such lunatic, idiot or insane person, as may be received into the said asylum, for the support, care and custody of such idiots, lunatics or insane persons; and such moneys shall be paid by the friends, parents or guardians of such lunatics, idiots, or insane persons, quarterly, to the treasurer of the state of Florida, who shall receipt for the same; and such moneys so received shall always be taken and considered as a part of the sum appropriated for the maintenance of indigent lunatics, and shall be used as such.*

Ibid § 14.
Terms.

Disposition
of funds.

17. Whenever the board of commissioners of state institutions shall deem it necessary or expedient, they may require a good and sufficient bond from the friends, parents or guardians of any lunatic, idiot or insane

Ibid § 15.
Bond.

* The board of commissioners of state institutions is composed of the governor and cabinet.

person, whom it may be desired to have placed in the said asylum, for the prompt and faithful payment of what may be charged for the support, care, and custody of such lunatic, idiot or insane person; and if such friends, guardians or parents do not pay the amounts required by the board of commissioners for the support, care and custody of such lunatic, idiot or insane person, within six months after the same is due, it shall be the duty of said board of commissioners to commence suit upon such bond and any moneys recovered in any such action shall be always applied to the maintenance of indigent lunatics.

18. Hereafter any practicing physician who shall be called in by a circuit judge to testify on an investigation as to the lunacy or insanity of an indigent person, who shall be alleged to be a lunatic or insane, shall be paid the sum of five dollars, and ten cents per mile by the state out of the appropriation for the maintenance of indigent lunatics and insane persons; the same shall be audited by the comptroller on the approval of the circuit judge, and paid by the treasurer on the comptroller's warrant.

19. The physician of the state prison shall also be the physician for such asylum, and shall exercise such powers in the matter of the care of the inmates of such asylum as may be prescribed by said board of commissioners.

20. He shall attend upon all insane convicts, and when, in his opinion, it can be done without detriment or danger to the other inmates of the prison, shall direct their removal to the prison hospital and see that they have proper care and exercise.

21. When any person tried for an offense shall be acquitted by the jury by reason of insanity, the jury, in giving their verdict of not guilty, shall state that it was given for such cause; and thereupon, if the discharge or going at large of such insane person shall be considered by the court manifestly dangerous to the peace and safety of the people, the court shall order him to be committed to jail, or otherwise to be cared for as an insane person, or may give him into the care of his friends, on their giving satisfactory security for the proper care and protection of such person; otherwise he shall be discharged.

Act of 1883.
§ 1, p. 64.
Fee and
mileage.

Ch. 147, § 19.
Physician.

Ch. 189, § 20.
Insane con-
victs.

Ch. 87, § 20.
When
acquitted for
insanity jury
may say so,
and court
may arrest.

GEORGIA.

GOVERNMENT OF ASYLUM.

1. Governor to appoint trustees.
2. Establishment and control of asylum.
3. Board of trustees; appointment.
4. Salaries; when paid.
5. Powers and duties; appointment and removal of officers, corporate powers, inspection of asylum.
6. Enumeration of officers.
7. Salaries of officers.
8. Offices to be separate.
9. Treasurer, bond and security of.
10. Accounts of treasurer and steward.
11. Annual report of trustees.
12. Estimates of expenses by trustees.
13. Superintendent, qualifications.
14. Duties of; residence, control of asylum, discharge of inmates.
15. Exemption of officers from militia, road and jury service.
16. Sale of liquor near asylum prohibited.

ADMISSION AND DISCHARGE.

17. Who may be admitted.
18. Classification of insane.
19. Separate apartments for different classes.
20. Preference to citizens.
21. Citizenship to be shown.
22. Census of insane required.
23. Admission of private patients on evidence of insanity or physicians' certificate.
24. Certified copy of records.
25. Admission of private non-resident patients, regulations for.
26. Classification of private patients.
27. Indigent patients, certificate of indigence; liability of relatives.
28. Support of indigent patients.
29. Indigent patients becoming possessed of property, liable for support.
30. Discharge of harmless incurables.
31. Discharged patients supplied with clothing and money.
32. Private patients, relatives may demand trial after commitment.

33. Like proceedings in other cases.
34. Idiots, epileptics and inebriates admitted to asylum.
35. Admission of, rules and regulations to be adopted.
36. Support of all patients to be free; special care on agreement.
37. Rules for admission, copies of, to be distributed.
38. Inebriates, when admitted, physicians' certificate.
39. Inebriates separately confined; to be classified as private patients.
40. Negroes, admission of, certificate of ordinary of county.
41. Temporary confinement of patients.
42. Absence during three months requires re-examination.
43. Commission of lunacy, application.
44. Finding of commission, commitment.
45. Expenses of commission and commitment.
46. Commitment by guardians, penalties for neglect.
47. Arrest and commitment, expenses.

CRIMINAL INSANE.

48. Non-accountability of insane to law.
49. Plea of insanity, how tried.
50. Becoming insane after conviction, trial of.
51. Convicted of capital crime, committed to asylum.
52. Provisions for criminal insane to apply to convicts.
53. Restored criminals re-committed.
54. Insane convicts to be transferred to asylum.
55. Oath on inquest of insanity in capital cases.
56. Exemption from trial during insanity.
57. Insane convicts admitted on certificate of physician of penitentiary.
58. State liable for support.
59. Restored convicts returned to prison.
60. Convicted of capital crime, discharged by legislature on recovery; discharge of other criminals.

1. He (the governor) shall also appoint all the officers of the following state institutions named in this code, and laws hereafter enacted amendatory thereof, unless menials, servants, day-laborers, or otherwise required, viz.: * * * * trustees of the lunatic asylum.

Code of 1882,
§ 73.
Appointment
of trustees of
asylum by
governor.

2. The state lunatic asylum at Midway, near Milledgeville, is solely the property of the state, and is under the management of [five] trustees [one of whom shall be a competent physician].

§ 1341.
Managed by
five trustees.

3. Said trustees are biennially appointed by the governor, on the first Monday in December, and in such manner that one of the trustees shall be continued in office for a second term, that there may be always one member of the board who has experience in the affairs of the asylum.

§ 1342.
Trustees, how
appointed.

4. The annual salary of each trustee shall be three hundred dollars in full of all allowances and expenses; and the same may be paid, one-half every six months, upon executive warrant therefor.

§ 1343.
Salary of
trustees.

5. They have authority—

(1) To prescribe all the rules and regulations for the management of the institution, not conflicting with the law.

§ 1344.
Authority of
trustees.

(2) To appoint all the officers, point out their duties, and fix their salaries.

(3) To create such other offices, and select the incumbents, if in their judgment such is necessary to an efficient administration.

(4) To remove from office, when the incumbents fail to discharge well their duties, or are guilty of any immoral or unfaithful conduct, and cause to be prosecuted any officer, or other person, who shall assault any inmate of said institution, or use toward such any other or greater violence than the occasion may require.

(5) To hold in trust for said asylum any grant or devise of land, or bequest or donation of money, or other property for the general use of the institution, or the particular use defined.

(6) To visit the institution monthly by at least one of the board, semi-annually by a majority, and annually by all of them, at such time as they may agree upon.

(7) To bring suit in their names for any claims the institution might have, whether arising upon contract or tort.

6. The officers of the asylum, appointed by the trustees, are a superintendent, an assistant physician, a treasurer, a steward, assistant steward and matron, whose salaries are paid quarterly out of the annual appropriations.

§ 1345.
Officers
designated.

7. The salaries, *per annum*, of such officers, respectively, are as follows: the superintendent and principal physician of the lunatic asylum, \$2500.00; the assistant physician, \$1250.00.

§ 1644.
Salaries.

8. The offices of treasurer and steward shall be separate and distinct, and no two offices pertaining to said institution, or its government, shall be held by one and the same person.

§ 1346.
Offices to be
separate.

9. The treasurer must give bond and security in the sum of ten thousand dollars.

§ 1347, Treas-
urer's bond.

10. It shall be the duty of the steward and treasurer, or either of them, to present to the governor, with each quarterly application for funds from the treasury, an exact itemized account of his expenditures for the preceding quarter, accompanied with a duplicate voucher for the sums disbursed by him for the said preceding quarters.

§ 1348.
Itemized ac-
counts.

11. At the close of each fiscal year, which terminates on the first day of October, the trustees shall make to the governor, to be by him laid before the general assembly, in connection with his annual message, a full report of the condition of the asylum, in all its departments, (embracing the amount of each kind of provisions, drugs, clothing and bedding purchased; of whom purchased, price paid and aggregate cost; number of persons received died and discharged; dates of reception, discharge and death; male and female, pauper and pay patients, and partial pay, if any; and also whether payment was made in clothing, provisions or currency).

§ 1349.
Annual report
of trustees.

12. It shall be the duty of the trustees to present to the governor, at least ten days before the annual meeting of the general assembly, an exact estimate of the amount of money required for the support of the said asylum for the succeeding year; and they shall set forth, under separate and distinct heads—a division, to wit; subsist-

§ 1350.
Trustees shall
present esti-
mates.

ence, clothing, fuel and transportation, salaries, wages, medical supplies, ordinary repairs, and special improvements—the several amounts required for each of said departments of expenditure, and the governor shall submit the same to the legislature as data upon which their appropriations may be made for the annual support of said institution; and said appropriations, or so much thereof as may be necessary, shall only be used for the division of expense for which it is estimated for and no portion estimated for each department of expenditure be diverted to or used for any other department of expenditure.

13. The principal officer of said asylum is the superintendent, who shall be a skilful physician.

§ 1351.

Superintendent.

14. It is his duty—

§ 1352.

Superintendent's duties.

(1) To reside constantly on the premises, and devote his professional services exclusively to the use of the asylum, for which purpose he must be furnished with a suitable residence.

(2) To take charge of and exercise control, subject to the trustees, over every department of the institution, and have control over all resident officers, attendants and servants employed therein.

(3) To discharge all duties anyway connected with the restoration to health or sanity of the inmates.

(4) To make an annual report to the trustees, on the first day of October, of all the affairs of the institution under his supervision, and shall account for all his expenditures on vouchers, in the same form as those which are made in accounting for disbursements in the commissary department of the United States.

15. * * * All persons employed at the state lunatic asylum shall be exempt from the performance of all jury, patrol, road, and militia duty and from all pains and penalties for the neglect thereof. * * *

§ 3639.

Employee exempt from certain duties.

16. It shall not be lawful for any person to expose for sale, or to sell, barter or give away alcoholic, vinous or fermented liquors of any kind, within a distance of one mile from the state lunatic asylum buildings; and any person who shall sell to, barter with, or give away such liquors aforesaid, to any patient or lawful in-

§ 1374 a

Sale of liquor in the asylum prohibited.

Offenders, punishment of.

mate of said asylum, or to any employe in the service of the institution, shall, on conviction in any court having jurisdiction of the offense, be fined by the judge thereof the sum of fifty dollars, and be also confined for thirty days in the county jail, for each and every offense.*

17. Persons who may become inmates of said asylum are either lunatics, idiots, epileptics, or demented inebriates. § 1353. Who may be inmates.

18. The inmates are divided into the following classes:—

- (1) Pay or pauper patients residents of this state. § 1354. Classification of inmates.
- (2) Pay patients being non-residents.
- (3) Insane penitentiary convicts.
- (4) Insane negroes, in certain cases.

19. The trustees of the asylum shall see that proper and distinct apartments are arranged for said patients, so that in no case shall the negro and the white person be together, nor the penitentiary convicts with either, and males and females shall be kept separately. § 1355. Asylum to be divided into apartments.

20. Citizens of our own state shall have preference to non-residents when, at the time of the application, all cannot be accommodated, and if such a contingency should happen, it must be reported to the governor without delay, who shall communicate the fact to the general assembly. § 1356. Georgia inmates preferred.

21. Every one sent to the asylum from any county in Georgia, must be shown, in the exemplification of proceedings, to be, at the time, strictly, a citizen of the state, in terms of the law relating to citizenship. § 1358 a. Applicants must be shown to be citizens.

22. The comptroller general is hereby, authorized and required to require of all tax receivers a return of each head of a family, of all lunatics, epileptics and idiots, and their sexes and color, in each county of this state; and also of all births, deaths, and causes of death.† Act of '77, p. 114, § 1. Census of lunatics, etc.

23. A pay patient, resident of this state, shall not be admitted unless accompanied by authentic evidence of lunacy, according to law, or there is produced the certificate of three respectable practicing physicians, well acquainted with the condition of the patient, or one from such § 1357. Resident pay patients, how admitted.

* § 1374 a will be found in addenda.

† This § is not in the code.

physicians, and two respectable citizens stating the cause of the application.

24. The exemplification of proceedings sent with the party committed, shall, in all cases, be certified a true copy from the book of record kept for that purpose.

§ 1357 a.
Exemplifica-
tion.

25. A pay patient, not a resident of this state, shall not be admitted unless accompanied by an authentic record of a conviction of a malady, which, by the law of this state, is a ground of admission, from a court having jurisdiction, or shall produce a certificate like that required in this state, together with the certificate of the judge having jurisdiction, who shall state officially, that the certificate of said physicians, and other persons, are genuine and entitled to full credit. And shall then not be received until the payment of expenses is secured.

§ 1358.
Non-resident
pay patients,
how admitted.

26. Pay patients may be divided into different classes, according to the accommodation desired and their means of paying.

§ 1359. Pay
patients may
be classified.

27. When a person has been convicted of a malady requiring him to be committed to said asylum, it is the duty of the court presiding at the trial to certify if said person be a pauper. He shall not be certified a pauper unless in whole or in part supported by the county, or the county is bound for his support under the law. If there are persons who by law are bound and able to support him, the names of such persons must be given. If the person has means enough to support himself in part, the amount of such means must be stated, and must be paid toward his support.

§ 1360.
Pauper pa-
tients and
how they are
certified.

28. A certificate of pauperism entitles the person to be supported at the expense of the state. Those for whose support others are bound must be furnished with suitable support by the state, and the expense collected out of such other persons by the trustees.

§ 1361.
Pauper pa-
tients, how
supported.

29. If a patient committed as a pauper, or as of limited means, becomes entitled to an estate, said estate is bound for his support according to its value, and whoever holds it may be compelled to secure to the asylum its proper charges, or to turn over to the trustees the property to be held for such purpose.

§ 1362.
Pauperism
ceasing, pa-
tients must
pay.

30. The board of trustees of the lunatic asylum shall have

power, upon the certifying thereunto of the medical officer of the institution, to discharge or remand to the care of friends and relatives, any lunatic—a patient in said asylum—whose condition is such that no probability exists of his or her restoration to full reason and sanity by medical ministrations thereto, and who, at the same time, is regarded harmless and inoffensive in spirit, and whose remission to social life would reasonably involve no danger to the life of those with whom he or she would be associated.

§ 1344 a.
Trustees of
asylum may
remove in-
mates.

31. A pauper patient shall not be discharged from the asylum without proper clothing and a sum of money necessary to carry him to his residence or the county from whence he was sent.

§ 1363. Dis-
charged pau-
pers must be
clad.

32. If before or after admission of a pay patient, resident or non-resident, by certificate, the person alleged to be a lunatic, or his friend or relative, may make a demand of the superintendent for a trial of the question of lunacy by jury, which shall be had without delay, according to law, in the county of Baldwin.

§ 1364.
Trial of lu-
nacy may be
demanded.

33. The like demand and trial may be had by all patients who have been convicted of lunacy, if the person demanding it, being relative or friend, will make an affidavit that he believes the alleged cause of commitment did not and does not exist, and that the conviction was obtained by fraud, collusion, or mistake. The same right exists, when there is an affidavit that the cause of commitment has ceased to exist, and there is a refusal by the superintendent to discharge after demand made.

§ 1365.
How trial
may be de-
manded.

34. Lunatics, epileptics, idiots and demented inebriates shall be admitted to, and discharged from, the lunatic asylum, under such rules and regulations as the trustees of said asylum shall make and prescribe, and not as now provided by law.*

§ 1344 b.
Idiots.

35. The said trustees, at their first meeting after the passage of this act, shall prepare and prescribe rules and regulations for the purposes aforesaid, and from time to time, as experience may demonstrate to be necessary, alter and change the same, which said rules and regulations, when thus established and prescribed, shall be

§ 1344 c.
Rules and
regulations.
Trustees to
adopt.

* §§ 1344 b, c, d and e will be found in the addenda.

executed and carried into effect by the superintendent and other officers of said asylum.

36. Said lunatic asylum shall be free to all the resident citizens of this state who may be lunatics, idiots, epileptics or demented inebriates, and who, when admitted, shall receive free, the same food, raiment and medical and other attention, as shall be provided for the inmates generally; *provided*, however, that if the family or friends of any inmate shall desire to furnish extra or additional food, or other comforts, they may be allowed so to do at their own expense, under such rules and regulations as said trustees may prescribe.

§ 1344 d.
Free admission.

Extra food,
etc., may be
furnished.

37. As soon as regulations have been made by the trustees for the reception of patients, it shall be the duty of said trustees to furnish or cause to be furnished, to the different ordinaries of this state, copies of said rules and regulations.

§ 1344 e.
Copies of
rules and
regulations.

38. When by a provision of this code, elsewhere made, a person is declared to be an inebriate and incapable of managing his property, such person, by his own consent, if capable, and if incapable, by the consent of his nearest relative, or when a person is not so declared, but has the certificate of three physicians, and is himself willing, such person may be received into said asylum, allowed the use of apartments devoted to him, or such as are suitable, and to be treated as a patient thereof.

§ 1366.
Inebriates
may be admitted.

39. Such patients shall never be placed in company with any other class of patients without their consent, nor placed in confinement unless they are dangerous to themselves or others. [They must pay for their support as pay patients and be subject to the control of the superintendent as other pay patients until discharged.]

§ 1367.
Inebriates—
how kept.

40. Apartments must be provided for insane negroes, residents of this state, who are able or unable to support and take care of themselves. Those negroes who are able must pay for their support; those unable must be supported as other pauper patients. The certificate of the ordinary of the county where the negro resides, of his condition, mentally and pecuniarily, shall be sufficient to grant his admittance.

§ 1368.
Insane negroes, etc.

41. Whenever there shall be an application for admission

unattended by the requisite evidences, the superintendent has authority to receive and provide for the person for a reasonable time, provided a sufficient sum shall be advanced for his maintenance in the meantime.

§ 1372.
Temporary
disposition of
patients.

42. When a person has been properly received as a patient, but is absent for as long as three months, either from discharge, elopement, or removal by friends, he cannot be received at the asylum without going through the process required in this chapter, according to the class of patients of which he may be.

§ 1373.
Absentees for
three months
must be re-
committed in
form.

43. Upon the petition of any person on oath, setting forth that another is liable to have a guardian appointed under the provisions of this article, [or is subject to be committed to the lunatic asylum of this state], the ordinary, upon proof that ten days' notice of such application has been given to the three nearest adult relatives of such person, or that there is no such relative within this state, shall issue a commission directed to any eighteen discreet and proper persons, one of whom shall be a physician, requiring any twelve of them, including the physician, to examine by inspection the person for whom guardianship [or commitment to the asylum,] is sought, and to hear and examine witnesses on oath, if necessary, as to his condition and capacity to manage his estate, and to make return of such examination and inquiry to the said ordinary, specifying in such return under which of said classes they find the said person to come. Such commissioners shall be first sworn by a justice of the peace "well and truly to execute the said commission to the best of their skill and ability," which oath shall be returned with their verdict.

§ 1335.
Proceedings
to obtain com-
mission.

44. Upon such return finding the person to be as alleged in the petition, or within either of said classes, the ordinary shall appoint a guardian for him, [or com- mit him to the lunatic asylum].

§ 1436.
Return and
appointment.

45. It shall be the duty of each ordinary of this state to draw his warrant upon the treasurer of his county for such sum or sums as shall be actually necessary or requisite to defray the expenses of trying every commission of lunacy, and of carrying or conveying such insane person from such county, to the state lunatic asylum, when such insane person shall be lawfully committed to such asylum; *provided*, that no money shall be drawn from the county

§ 1864 a.
Expense of
lunacy com-
mission, etc.

treasury for the purposes herein set forth, where the estate of such insane person is sufficient to defray such expenses.

46. Guardians of insane persons are authorized to confine them, or place them in the asylum, if such a course is necessary either for their own protection or the safety of others; and a guardian wilfully failing to take such precaution with his ward shall be responsible for injuries inflicted on others by such ward.

§ 1863.
Guardians
may confine
insane wards.

Liability of
guardians.

47. [When there is no guardian for an insane person, or the guardian on notice refuses or fails to confine his ward, and any person shall make oath that such insane person, for public safety or other good and sufficient reason, should not longer be left at large, the ordinary before whom said oath is made, shall issue a warrant, as in criminal cases, for the arrest of such insane person, to bring him before him on a day specified; and said ordinary, on an investigation of the facts, may commit such insane person, to the lunatic asylum, and if necessary, cause him to be temporarily committed to jail until he can be removed to the asylum; and the expense of such confinement and the proceedings shall be paid out of the estate of such insane person, if any, and if not, out of the county funds.] The fees of the ordinaries of the several counties of this state for making out commissions of lunacy, and all other services connected therewith, shall be five dollars, and no more; and the fees of sheriffs and bailiffs for summoning juries, and other services connected with the trial of cases of lunacy, shall be three dollars, and no more.

§ 1864.

Proceedings
to confine
ward at in-
stance of
third person.

48. A lunatic or person insane, without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he or she may be charged; *provided*, the act so charged as criminal was committed in the condition of such lunacy or insanity; but if a lunatic hath lucid intervals of understanding, he shall answer for what he does in those intervals as if he had no deficiency.

§ 4296.
Lunatic not
amenable to
law.

49. Whenever the plea of insanity is filed, it shall be the duty of the court to cause the issue on that plea to be first tried by a special jury, and if found to be true, the court shall order the defendant to be delivered to the superintendent of the asylum, there to remain until discharged by the general assembly.

§ 4299.
Plea of in-
sanity, how
tried.

50. If, after any convict shall have been sentenced to the punishment of death, he shall become insane, the sheriff of the county, with concurrence and assistance of the ordinary thereof, shall summon a jury of twelve men to inquire into such insanity; and if it be found, by the inquisition of such jury, that such convict is insane, the sheriff shall suspend the execution of the sentence directing the death of such convict, and make report of the said inquisition and suspension of execution to the presiding judge of the district, who shall cause the same to [be] entered on the minutes of the superior court of the county where the conviction was had. And, at any time thereafter, when it shall appear to the said presiding judge, either by inquisition or otherwise, that the said convict is of sound mind, the said judge shall issue a new warrant, directing the sheriff to do execution of the said sentence on said convict, at such time and place as the said judge may appoint and direct in the said warrant, which the sheriff shall be bound to do accordingly. And the said judge shall cause the said new warrant, and other proceedings in the case, to be entered on the minutes of the said superior court.

§ 4666.
Convict becoming insane after conviction; proceedings.

51. When any person shall, after conviction of a capital crime, become insane, and shall be so declared in accordance with the provisions of section 4666, of the code, it shall be the duty of the judge to certify the fact, and the said convict shall be received into the lunatic asylum, there to be safely and securely kept and treated as other adjudged insane persons.

§ 4666 a.
Disposal of insane convicts.

52. All the provisions of the law, relating to insane persons under sentence of imprisonment in the penitentiary, shall apply to the class of cases herein provided for, so far as applicable.

§ 4666 b.
Provisions.

53. If such convict shall recover, the fact shall be at once certified by the superintendent to the judge of the court in which the conviction occurred, whose duty it shall be to have the convict removed to the jail of the county in which the conviction occurred, or to some other safe jail, and shall pass sentence either in term time, or vacation, upon the criminal, which shall be executed by the sheriff, as in other cases. [See pl. 59.]

§ 4666 c.
Proceedings on recovery of insane convict.

54. In every case where a convict is sentenced to the penitentiary of this state, and becomes insane, whether § 4666 d.
insane
convicts. in the hands of a lessee or otherwise, on the fact being established to the satisfaction of the governor, he shall direct said convict to be removed to the lunatic asylum, there to be supported and receive medical assistance, as other pauper patients do, at the expense of the state.

55. On the trial of the question of insanity, arising after the person shall have been condemned to die, provided § 4695.
Oath of
insanity. for by section 4666 of this code, the following oath shall be administered to the jury, to wit: "You, and each of you, do solemnly swear (or affirm) that you will well and truly try this issue of insanity between the state and A. B., now condemned to die, and a true verdict give according to evidence. So help you God."

56. No lunatic, or person afflicted with insanity, shall be tried, or put upon his trial, for any offense, during § 4673.
Issue per-
sons accused
of crime. the time he is afflicted with such lunacy or insanity, which shall be tried in the manner hereinbefore pointed out, where the plea of insanity at the time of offense is filed, and, on being found true, the prisoner shall be disposed of in like manner.

57. If a penitentiary convict becomes afflicted so as the affliction would entitle another person to a place in § 1369.
Insane con-
victs, how
admitted. said asylum, he shall be received therein if accompanied by the certificate of the physician to the penitentiary and the principal keeper thereof of said fact. The certificate shall also show the name of the convict, the offense for which sentenced, the county from whence sentenced, and his term of service, which shall be filed away.

58. If said convict has the necessary means, he shall pay § 1370. How
supported. for his support as long as he remains at the asylum.

59. If such convict shall recover before his term of service has expired, the fact shall at once be certified by the § 1371.
Cured con-
victs, how
disposed of. superintendent to the principal keeper of the penitentiary, who shall forthwith have said convict taken back into the penitentiary.

60. When a person has been acquitted of a capital crime on the ground of insanity, and such person is committed § 1374.
Insane crimi-
nals, how
dealt with. to the asylum, he shall not be discharged thence

except by special act of the legislature. If the crime is not capital, he shall be discharged by warrant or order from the governor. If sentence is suspended on the ground of insanity, upon restoration to sanity the superintendent shall certify the fact to the presiding judge of the court where he was convicted.

IDAHO.

EXAMINATION AND SUPPORT OF INSANE.

1. Commissioners, appointment of, power to contract for keeping insane.
2. Contract, copies of to be distributed.
3. Examination of insanity and indigence, commitment, expenses.
4. Examination to be public, physician's certificate; non-residents, powers of courts.
5. Commitment to asylum, certificate of, filing of duplicates.
6. Records of asylums submitted to controller.

7. Support of insane, by whom paid.

CRIMINAL INSANE.

8. Non-accountability to law.
9. Jury trial of insanity.
10. Suspension of criminal proceedings.
11. Order of inquiry.
12. Judge's charge.
13. If sane, resumption of trial.
14. If insane, suspension of trial; commitment.
15. Exoneration of bail, if insane.
16. Returned to custody on recovery.
17. Expenses of, how paid.

1. The governor of Idaho territory and John Hailey, the president of the council thereof, are hereby appointed commissioners of Idaho territory, to contract on behalf of said territory, with the proper authorities of the state of California, or Oregon, or both, or with the proprietor or proprietors of any insane asylum in either or both of said states, for the keeping, treatment, and maintenance of the indigent insane of Idaho territory, if in the judgment of said commissioners, such contracts can be made upon reasonable terms, and in such manner as to secure the skilful treatment of such persons.

2. After such contract or contracts have been made and entered into, copies of the same shall by said commissioners be distributed to the boards of county commissioners, and the auditors and recorders of the several counties of this territory.

3. Whenever such contract or contracts shall have been made as aforesaid, any person who is alleged to be indigent and insane, and a resident of the county where the complaint is made, shall be brought before any court of record of said county, or a judge thereof, and examined, and if the evidence produced at the examina-

Act of 1881,
p. 300, § 1.
Commis-
sioners.

Contract.

Ibid § 2.
Distribution
of copies of
contract.

Ibid § 3.
Examination
of alleged
insane.

tion shows that the person examined is a resident of said county, and is indigent and insane, and should for the security of the public or for the good of such insane person, be kept in custody, the said court or judge shall make an order to that effect, and the person so declared to be insane, as aforesaid, shall be conveyed to the proper asylum which shall be designated in such order, at the expense of the county of which he or she is a resident, but the expense and all charges for the care, treatment, and maintenance of such insane person at such asylum, as well as the expenses incident to a discharge therefrom, or death, shall be chargeable to and paid by the territory; *provided*, that if it shall appear from such examination before such court or judge that such person is indigent and insane, but that such insanity is of a character that the public safety or the good of such person does not require him or her to be confined, such court or judge shall so certify, and such person shall be cared for as is now provided by law for the care of the indigent, sick, idiotic, and insane persons in the several counties of this territory.

Care of
insane not
dangerous.

Conveyance
to asylum at
expense of
county.

4. All examinations of persons alleged to be insane shall be public, and the court or judge before whom the examination shall be held, shall not order, adjudge or decree the person examined to be insane, unless at least one physician, a graduate in medicine, testifies on the examination that he believes the person so examined is insane, and whether, in his opinion, it would endanger the public safety to permit such person to run at large. If it appears at such examination that the person so examined is insane, but not a resident of the county in which the examination is held, and is a resident of another county in this territory, the court or judge shall by order direct that the person so examined and all the papers relating to the case, be turned over and delivered to the proper court, or judge of the county of which the person so examined is a resident, which court or judge shall examine the case anew. For the purpose of such examinations, or of any examination of a person alleged to be insane, under the provisions of this act, any court or judge having jurisdiction, is authorized to issue subpoenas, warrants of arrest,

Ibid § 4.
Examination
of insane to be
public.

Testimony of
physicians.

Transfer of
examination
to proper
county.

Powers of the
court.

or any other process necessary for the exercise of the jurisdiction conferred by this act, and have them duly served by the sheriff or other proper officer.

5. The several boards of county commissioners of this territory shall provide for the transportation of any person found to be insane, and ordered to be placed in an asylum as aforesaid, from their respective counties to the proper asylum, and the person or persons in charge of such asylum shall in every instance execute a certificate in duplicate, certifying at what time and from what person any such insane person was received at such asylum. One copy of which certificate shall be filed with the clerk of the board of county commissioners of the proper county and the other copy with the territorial controller.

*Ibid § 5.
Transportation of insane to asylum and duty of person in charge.*

6. It shall be the duty of the owner, proprietor, or managing agent of any asylum, with whom such contract as aforesaid, be made, to render to the territorial controller, a verified account, at least, once every three months, for the keeping of any insane person, together with a statement showing the condition of any such insane person or persons under treatment at such asylum, and if any such insane person die, escape, or be discharged from such asylum, to immediately report the fact, and date of every such death, escape, or discharge to the said controller.

*Ibid § 6.
Duty of manager of asylum.*

7. All claims against the territory for the maintenance and care of the indigent insane in any such asylum shall be presented to the territorial controller, who shall credit the same, and if the account is correct and due, he shall draw a warrant for the amount payable out of the territorial treasury out of any moneys not otherwise appropriated, and the territorial treasurer shall pay the same in its regular order.

*Ibid § 7.
Claims against territory for care of insane.*

8. An act done by a person in a state of insanity cannot be punished as a public offense; nor can a person be tried, adjudged to punishment, or punished for a public offense while he is insane.

*Rev. Laws of 74-75, Crim. Prac., § 566.
Insanity excuses crime.*

9. When an indictment is called for trial, or upon conviction, the defendant is brought up for judgment, if a doubt shall arise as to the sanity of the defendant, the court shall order the question to be submitted to

*Ibid § 567.
Inquiry into defendant's sanity.*

the regular jury, or may order a jury to be summoned, as prescribed in section 453, to inquire into the fact.

10. The trial of the indictment, or the pronouncing of the judgment (as the case may be), shall be suspended until the question of insanity shall be determined by the verdict of the jury.

Ibid § 568.
Trial or judgment suspended.

11. The trial of the question of insanity shall proceed in the following order:

Ibid § 569.
Insanity, how tried.

1st. The counsel for the defendant shall open the case and offer evidence in support of the allegation of insanity.

2d. The counsel for the people shall open their case and offer evidence in support thereof.

3d. The parties may then respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original cause.

4th. When the evidence is concluded, unless the case is submitted to the jury on either or both sides without argument, the counsel for the people must commence, and the defendant, or his counsel, may conclude the argument to the jury.

5th. If the indictment be for an offense punishable with death, two counsel on each side may argue the case to the jury, in which case they must do so alternately. In other cases, the argument may be restricted to one counsel on each side.

6th. The court shall then charge the jury if requested by either party.

12. The provisions of section 383 in respect to the charge of the court to the jury, upon the trial of an indictment, shall apply to the trial of the question of insanity.

Ibid § 570.
Charge to jury on trial of.

13. If the jury find that defendant is sane, the trial of the indictment shall proceed, or judgment may be pronounced, as the case may be.

Ibid § 571.
Defendant found sane.

14. If the jury find that the defendant is insane, the trial or judgment shall be suspended until he become sane; and the court, if it deem his discharge dangerous to the public peace or safety, may order that he be in the meantime committed by the sheriff to the custody of some proper person, and that, upon his becoming sane, he be re-delivered by such person to the sheriff.

Ibid § 572.
Found insane, proceedings.

15. The commitment of the defendant, as mentioned in the
Ibid § 573.
Bail, exoneration of. last section, shall exonerate any bail he may have
given, and shall entitle any person authorized to receive the property of the defendant to a return of any money he may have deposited instead of bail.

16. If the defendant be received by the person so appointed,
Ibid § 574.
Returning to sanity; proceedings. he must be detained by him until he becomes sane.
When he becomes sane, such person shall give notice to the sheriff and district attorney of the county of that fact. The sheriff shall thereupon, without delay, take the defendant from the custody of such person, and place him in proper custody until he be brought to trial or judgment, as the case may be, or be otherwise legally discharged.

17. The expense of placing the defendant in the custody of
Ibid § 575.
Expense of keeping defendant; to whom chargeable. such proper person, of keeping him and bringing him back, shall, in the first instance, be chargeable to the county in which the indictment was found; but the county may recover them from the estate of the defendant, if he have any, or from any relative, town, city or county bound to provide for and maintain him elsewhere.

ILLINOIS.

COMMISSIONERS OF PUBLIC CHARITIES.

1. Appointment, term of office.
2. Organization of board.
3. Powers and duties; inspection.
4. Visitations, reports, special investigation.
5. Inspection of pauper asylums.
6. State aid, inquiry into application.
7. Judicial powers granted.
8. Attendance on sessions of legislature.
9. Compensation of board.
10. Interests in contracts forbidden.

GOVERNMENT OF ASYLUMS.

11. Establishment, locations, titles.
12. Trustees, corporate powers.
13. Object of asylums, powers of trustees as to admission.
14. Government of asylums vested in boards of trustees, residence.
15. Removal, vacancies how filled.
16. Oath of office.
17. Control of appointments and removals.
18. Compensation of trustees.
19. Superintendent's powers and duties.
20. Organization of board.
21. Treasurer and superintendent, bond.
22. Accounts of treasurer.
23. Duties of treasurer.
24. Meetings of trustees, quorum.
25. Reports of treasurer and superintendent.
26. Interests in contracts forbidden.
27. Purchase of supplies, regulations.
28. Register of officers and employees.
29. Records of stores and supplies.
30. Reports and statistics of asylums.
31. Reports of trustees.
32. Publication and distribution.
33. County boards may erect asylums.
34. Property deeded to use of asylum, how controlled.

ADMISSION AND DISCHARGE.

35. Support of insane to be free, non-residents, chargeable with costs, special care by agreement.

36. Apportionment of counties.
37. Admission in ratio of population.
38. Support, settlement of expense.
39. Mandamus to compel payment.
40. Preferences to recent cases and to those capable of labor.
41. Patients, transfer to proper asylum.
42. Petition for inquest of insanity.
43. Warrant of arrest.
44. Subpoena of witnesses.
45. Trial of insanity by jury.
46. Form of verdict.
47. Order of commitment, application to superintendent.
48. Application made to which asylum, answer of superintendent.
49. Warrant of commitment, service.
50. Form of warrant.
51. Superintendent's receipt, filing of warrant.
52. Idiots and others not admitted.
53. Temporary confinement.
54. Expenses of trial, how borne.
55. Expenses of commitment.
56. Clothing of private patients.
57. What clothing to be supplied.
58. Clothing to be supplied to indigent patients by counties.
59. Discharge, notification to county, expenses, how borne.
60. Non-resident patients, when admitted, charges for.
61. Discharge upon recovery; habeas corpus, illegal detention.
62. Insane patients may be committed to county asylum.
63. Trial by jury necessary.
64. Illegal confinement, penalty for.
65. Free access by clergymen.
66. Officers to permit ministrations of religion.
67. Penalty for refusal.

CRIMINAL INSANE.

68. Non-accountability to law, fact of insanity found in verdict, commitment.
69. Judgment and sentence stayed.
70. Insane convicts removed to asylum, restored to be recommitted.

1. The governor, by and with the consent of the senate, shall appoint five persons, to be called and known as "The Board of State Commissioners of Public Charities." One of the persons so appointed shall hold his office for one year, one for two years, one for three years, one for four years, and one for five years, as indicated by the governor in making the appointments; and all appointments thereafter, except to fill vacancies, shall be for five years. In case of any vacancy occasioned by the removal from the state by any such person so appointed, or death, or resignation, or non-acceptance of the office, or removal from office by the governor, by any such person so appointed, the governor shall immediately fill such vacancy, and all appointments made by the governor when the senate is not in session shall be valid until the next session of the senate.

2. Before entering upon their duties, the said commissioners shall, respectively, take and subscribe the constitutional oath required of other state officers, which shall be filed in the office of the secretary of state, who is hereby authorized and directed to administer such oath. The said commissioners shall have power to elect a president out of their number, and such other officers and agents as they may deem proper, and to adopt such by-laws and regulations for the transaction of their business, as they may consider expedient.

3. The said commissioners shall have full power, at all times, to look into and examine the condition of the several institutions, which they may be authorized by this act to visit, financially and otherwise; to inquire and examine into their methods of instruction, and the government and management of their inmates; the official conduct of trustees, directors, and other officers and employes of the same; the condition of the buildings, grounds, and other property connected therewith, and into all other matters pertaining to their usefulness and good management. And for these purposes they shall have free access to the grounds, buildings, and all books and papers relating to said institution; and all persons now or hereafter connected with the same are hereby directed and required to give such information, and afford such facilities for inspection, as the said commissioners may require.

R. S. of 1883,
ch. 23, § 2.
Appointment,
term of office,
vacancy, com-
missioners.

Ibid § 3.
Oath.

Powers.

Ibid § 4.
Further
powers.

4. The said commissioners, or some one of them, are hereby authorized and required, at least twice in each year, and as much oftener as they may deem necessary, to visit all the charitable and correctional institutions of the state, excepting prisons receiving state aid, and ascertain whether the moneys appropriated for their aid are or have been economically and judiciously expended; whether the objects of the several institutions are accomplished; whether the laws in relation to them are fully complied with; whether all parts of the state are equally benefited by said institutions, and the various other matters referred to in the third section of this act, and report, in writing, to the governor, by the fifteenth of December, annually, the result of their investigations, together with such other information and recommendations as they may deem proper. And the said board of public charities, or one of them, shall make any special investigation into alleged abuses in any of said institutions, whenever the governor shall direct, and report the result of the same to the governor.

*Ibid § 5.
Duties.
annual report, commissioners.*

5. The said commissioners, or one of them, shall also, at least once each year, visit and examine into the condition of each of the city and county alms or poor houses, or other places where the insane may be confined, and shall possess all the powers relative thereto, as mentioned in the third section of this act; and shall report to the legislature, in writing, the result of their examination, in connection with the annual report above mentioned.

*Ibid § 6.
To visit places where insane are kept, and report.*

6. Whenever any charitable or correctional institutions, subject to the inspection herein provided for, require state aid for any purpose other than their usual expenses, the said commissioners, or some, or one of them, shall inquire carefully and fully into the ground of such want, the purpose or purposes for which it is proposed to use the same, the amount which will be required to accomplish the desired object, and into any other matters connected therewith; and in the annual report of each year they shall give the result of such inquiries, together with their own opinions and conclusions relating to the whole subject.

*Ibid § 7.
State aid, commissioners report upon such.*

7. The said commissioners, or any one of them, are hereby authorized to administer oaths, and examine any

Ibid § 8.

Oaths, examination of witnesses.

person or persons in relation to any matters connected with the inquiries authorized by this act.

Ibid § 11.
Attendance upon legislature.

8. The said commissioners, or some, or any one of them, shall attend upon the session of the legislature, whenever any committee of either house shall require their attendance.

Ibid § 13.
No compensation, traveling expenses.

9. The said commissioners shall receive no compensation for their time or services; but the actual expenses of each one of them, while engaged in the performance of the duties of their office, and any actual outlay for any actual aid and assistance required in examinations and investigations, on being made out and verified by the affidavit of the commissioners making the charge, and approved by the governor, shall be paid quarterly by the treasurer on the warrant of the auditor of public accounts, out of any moneys in the treasury not otherwise appropriated; and the clerk of the board shall be paid in like manner.

Ibid § 14.
Not to be interested in contracts, eligibility.

10. No member of the said board of commissioners shall be, directly or indirectly, interested in any contract for building, repairing or furnishing any of the institutions which, by this act, they are authorized to visit and inspect; nor shall any trustee or other officer of any of the institutions embraced in this act be eligible to the office of commissioner, hereby created.

Ibid § 19.
Charitable institutions.

11. The state institutions hereinafter named, are hereby recognized and continued, and they shall hereafter be known and designated by their respective titles,

as expressed in this section namely:*

* The bill revising the law in relation to the state institutions prepared by the commissioners of revision failed to pass. The act "to regulate the state charitable institutions and the state reform school," etc., approved April 15, 1875, is a partial attempt at a revision of the law regulating the institutions mentioned in it, but does not embrace all the state institutions which might properly come within its title. As the existing laws relating to these institutions are voluminous and somewhat confused, it is thought best to omit them from this volume, simply giving references showing where they may be found. In some cases the same act refers to several institutions.

Illinois Central Hospital for the Insane (at Jacksonville), L. 1847, p. 52; L. 1849, p. 93; L. 1851, p. 96; L. 1853, p. 241; L. 1857, p. 84; L. 1865, p. 85.

Illinois Northern Hospital for the Insane (at Elgin), L. 1869, p. 24.

Illinois Southern Hospital for the Insane (at Anna), L. 1869, p. 19; L. 1871-2, p. 274; L. 1873, p. 103.

Illinois Eastern Hospital for the Insane, L. 1877; Legal News ed., p., 50.

The Illinois Central Hospital for the Insane, at Jacksonville.

The Illinois Northern Hospital for the Insane, at Elgin.

The Illinois Southern Hospital for the Insane, at Anna.

[The Illinois Eastern Hospital for the Insane.]

12. The trustees of each of the said state institutions shall be a body corporate and politic, for certain purposes, Ibid § 20. Powers of the trustees. namely: to receive, hold, use and convey or disburse moneys and other property, real and personal, in the name of said corporations, but in trust and for the use and by the authority of the state of Illinois, and to control, manage and direct the several trusts committed to them respectively, including the organization, government and discipline of all officers, employes and other inmates of said institutions, with power to make contracts, to sue and be sued, plead and be impleaded, to have and to use a common seal and to alter the same at pleasure, and to exercise all other powers usually belonging and incident to such corporations, and necessary for the successful discharge of the obligations devolving by law upon said boards of trust; *provided*, that they shall not have power to bind the state by any contract beyond the amount of the appropriations which may at the time have been made for the purposes expressed in the contract, nor to sell or convey any part of the real estate belonging to their respective institutions without the consent of the legislature, except that they may release any mortgage or convey any real estate which may be held by them as security for any money or upon any trust the terms of which authorize such conveyance; *and provided, further*, that the general assembly shall have power, at any time to amend, alter, revoke or annul the grant of corporate powers herein contained or heretofore expressed in any and all charters previously granted to any of said institutions.

13. The object of the hospitals for the insane shall be to receive and care for all insane or distracted persons Ibid § 21. Object of and admission to hospitals for the insane. residing in the state of Illinois, who may be committed to their care in accordance with law, and to furnish all needed medical treatment, seclusion, rest, restraint, attendance, amusement, occupation, and support, which may tend to restore their health and recover them from insanity, or to alleviate their suffering; *provided*, that the trustees shall have power to discharge patients and to refuse additional ap-

plications for admission to the hospitals under their care, whenever, in their judgment, the interests of the insane demand such discharge or refusal, and that in the admission and retention of patients, curable and recent cases shall have the preference over cases of long standing, and that violent, dangerous or otherwise troublesome cases shall have the preference over these of an opposite description.

14. The management of each of the state charitable institutions * * * shall be vested in a board of three trustees, to be appointed by the governor, by and with the advice and consent of the senate, and to be divided into three classes, and one class appointed every two years, to serve for six years from the first of March in each year bearing an odd number, as follows: upon the taking effect of this act three trustees shall be appointed for each charitable institution, * * * of whom one-third shall serve until the first of March, A. D., 1877, one-third shall serve until the first of March, 1879, and one-third shall serve until the first of March, 1881, as may be determined by lot: and their successors, respectively, shall serve for six years each, and in every case a trustee shall hold his office until his successor is appointed and qualified; *provided*, that not more than one trustee for the same institution shall be appointed from or reside in any one county, and that no person shall be appointed or serve as trustee of more than one institution at one and the same time; and *provided further*, that no superintendent or employe of any of said institutions shall be trustee thereof.

15. The governor shall have power to remove any trustee for inefficiency or other good and sufficient cause; and every vacancy occurring from death, removal, or otherwise, shall be filled for the remainder of the unexpired term in the same manner as prescribed in the seventh section of this act, but if the senate be not in session when such vacancy occurs, the governor shall fill such vacancy, subject, however, to the approval of the senate at its next regular session.

16. Every person appointed as trustee of any state institution shall, before entering upon the duties of his office, take and subscribe the oath prescribed in the twenty-fifth section of the fifth article of the con-

Ibid § 25.
Appointment
and term of
office of trustees.

Ibid § 26.
Removal of
trustees.

Ibid § 27.
Trustees to
take an oath.

stitution of the state of Illinois, which oath shall be filed in the office of the secretary of state.

17. Each of the boards of trustees appointed in accordance with the provisions of this act shall have charge of the general interests of the institution committed to its care, and shall have the power to appoint such officers and other agents, not herein otherwise provided for, as may be needed for the successful management thereof, to define their duties, to fix their compensation, to remove and discharge them whenever, in their judgment, the welfare of the institution demands, and to make all necessary by-laws, rules and regulations for the government of the institution and its inmates; *provided*, that no person shall be appointed superintendent of either of the hospitals for the insane, * * * who is not an educated and competent physician.

*Ibid § 28.
Further powers of board of trustees; sup't.*

18. The trustees shall receive no compensation for their services; but the actual expenses of each of them, while engaged in the performance of the duties of his office, shall be audited by the board and paid out of the funds of the institution.

*Ibid § 29.
Compensation of trustees.*

19. The principal executive officer of each of the state charitable institutions shall be officially known and designated as the superintendent of said institution. He shall be the financial agent of the trustees, and shall have charge of the premises, property and inmates, subject to their direction. He shall, with the consent of the trustees, appoint all subordinate officers and employes, and assign them their respective duties, and may at any time discharge them from service. He shall see that all officers, agents and employes of the institution faithfully discharge their duties, and shall be directly responsible to the trustees for the economy, efficiency and success of the internal management. In all institutions which furnish board to the inmates, the superintendent shall reside in the institution.

*Ibid § 30.
Power and duty of superintendent.*

20. The trustees of each of the state institutions shall appoint one of their own number to be president of the board and shall appoint some person not a member of the board to be treasurer of the institution. They shall also appoint such person as they may select to be their secretary.

*Ibid § 31.
Officers of board of trustees.*

21. The treasurer and superintendent, before entering upon the duties of their office, shall each give bond payable to the people of the state of Illinois, in such amount and with such sureties, not less than two, as shall be approved by the trustees and by the governor, conditioned for the faithful performance of the duties of their office, which bond shall be filed in the office of the state commissioners of public charities, at Springfield.

*Ibid § 32.
Treasurer and
sup't to give
bond.*

22. The books and papers of the treasurer shall be open at all times to the inspection of any of the trustees of his institution, officers of state, members of the general assembly, or the state commissioners of public charities.

*Ibid § 33.
Books and pa-
pers liable to
inspection.*

23. The treasurer shall receive and be the custodian of all moneys due or belonging to the institution, whether derived from the state treasury or from other sources, and the superintendent, or any other officer into whose hands any moneys rightfully belonging to the institution may chance to come, shall pay over all such moneys in full to the treasurer, at least once in every month. The treasurer shall not pay out any of the funds of the institution except on proper vouchers, namely on the order of the board of trustees by such agent as the board may appoint, and the original orders upon which said funds are paid out shall be returned from time to time to the trustees, to be filed in the office of the institution and there permanently preserved, and the president of the board shall give his receipt to the treasurer for said orders when returned, showing in detail their numbers and amounts, which receipt shall be a final clearance of the treasurer from all further responsibility for said moneys so paid. The treasurer shall keep an itemized account, in a substantially bound book, showing, under appropriate heads, all the receipts and disbursements, in detail, with the date when and the parties from or to whom the same were received or paid, and also the current number of the order of the trustees upon which each cash payment is made.

*Ibid § 34.
Duty of treas-
urer. fund,
vouchers, ac-
counts.*

24. The trustees shall hold regular stated meetings of the board, at the institution, at least as often as once in every three months, at such times as they may appoint, and called meetings at the request of any one

*Ibid § 35
Meetings of
trustees, in-
spection of in-
stitution.*

of their number. A majority of the board shall constitute a quorum to do business. At each regular meeting they shall inspect the institution under their charge, and they, or any one of them, may visit and inspect the same at any time.

25. At each stated meeting of the board, the treasurer shall make a full report of all moneys received and paid out by him, accompanying the same with a copy of his itemized account, which account shall be verified by affidavit, and make settlement with the trustees. Ibid § 38. When treasurer and superintendent to report, appropriation, when payable. The superintendent shall present to the trustees an itemized statement of the kind, quality and cost of all articles purchased for the institution during the interval since the last regular meeting of the board, and a classified summary of expenses incurred, with which the report of the treasurer shall be compared. The trustees having examined said reports and accounts of the superintendent and treasurer, and the balance in the treasurer's hand, together with the amount of outstanding unpaid liabilities, shall indorse their approval thereon and transmit the same, with duplicate vouchers accompanying, to the state commissioners of public charities, at Springfield, to be filed in their office for inspection at any time by the governor and by the members of the general assembly. And no instalment of any appropriation heretofore or hereafter made by the general assembly shall be due or payable to any of the state institutions until the state commissioners of public charities shall have certified to the governor the accuracy of the said statements and accompanying vouchers, which certificate shall be approved by the governor, and delivered to the auditor of public accounts.

26. No trustee, treasurer, superintendent or other officer or agent appointed by virtue and under the provisions of this act, shall be directly or indirectly interested in any contract or other agreement for building, repairing, furnishing or supplying said institutions. Ibid § 40. No officer to be interested in contract; penalty. Any violation of this section shall subject the offender, on conviction, to be punished by a fine of not more than double the amount of said contract or agreement, or by imprisonment in the penitentiary for a term of not less than one nor more than three years.

27. In the matter of the purchase of supplies for an institution, the trustees shall cause such purchase to be made wherever the best grade of articles of suitable quality can be bought at the lowest price, and, so far as practicable, in large rather than in small quantities, and they shall, if in their judgment it can be done to advantage, advertise for proposals for staple supplies, such as meat, flour, sugar, coffee, tea, fuel and other staple articles, and make contracts for the furnishing of the same in bulk or in quantities as may be needed for use; *provided*, that the trustees shall have power, by themselves or by their financial agent, to terminate and annul such contract whenever the supplies furnished do not fully correspond in quality and quantity to the samples previously furnished by the contractors, and to the letter and spirit of the proposals made by them; *and provided further*, that no drawbacks, presents, or secret discounts shall be given to or received by any person whatever on account of any articles or materials furnished to or labor done for any state institution, and a violation of this proviso shall subject the offender, on conviction thereof in any court of record, to a fine of not more than one thousand dollars or imprisonment in the penitentiary for a term of not less than one nor more than three years.

28. Every state institution shall keep a register of the number of officers, employes and inmates present each day in the year, in such form as to admit of a calculation of the average number present each month.

29. Every state institution shall, so far as may be practicable, keep a record of stores and supplies, showing the amount of stores, etc., received and issued, with the dates and names of the parties from or to whom the same were received or issued.

30. On or before the first day of November preceding each regular session of the general assembly, the trustees of each of the state institutions named in this act shall make out and transmit to the state commissioners of public charities, and they, if they find the same to be correct, shall deliver the same to the governor, a full and detailed report of all their transactions and doings for the two years ending on the thirtieth day of September immediately preceding, showing for the two years, and for each of them, separately, the number

Ibid § 41.
Purchase of
supplies;
penalty.

Ibid § 42.
Register to be
kept.

Ibid § 43.
Record of
stores.

Ibid § 46.
Reports of
trustees.

of inmates admitted and discharged since their last report, the number then remaining in the institution, the average annual attendance, the receipts, disbursements and expenditures of moneys or other funds, the valuation of property in the hands of the trustees, the amount of each appropriation or fund under their control, and the balance thereof remaining unexpended in their hands or in the treasury of the state. The reports required by this section shall be accompanied with a cash statement made by the treasurer of the institution, and with such other information, financial, statistical and otherwise, in such tabulated form as the commissioners of public charities may prescribe and require; *provided*, that the said commissioners shall prescribe forms of statements as nearly uniform as may be practicable for all the institutions, to the end that their accounts may be compared and consolidated for the information of the general assembly; *and provided further*, that the said commissioners may call for and require special reports when, in their judgment, the public interest shall demand the same.

31. The * * * trustees of the state charitable institutions shall be on or before the first day of November in the year eighteen hundred and seventy-six, and biennially thereafter, make and deliver to the governor such reports as they are now required by law or the constitution to make of their acts and doings respectively, closing with the fiscal year preceding each regular session of the general assembly, and no other annual or biennial report shall be made by such officers. * * *

Ch. 102, § 6.
Reports, time
of making; the
fiscal year.

32. The number of copies of the several reports of the state institutions named in this act, now or hereafter prescribed by law, shall be printed and published under the supervision of the state commissioners of public charities, who shall have said reports printed, bound and ready for distribution to the members of the general assembly, within ten days after the meeting thereof.

Ch. 23, § 47.
Printing re-
ports.

33. The county boards of the several counties shall have power:

* * * * *

Ch. 34, § 25.
Powers of
county
boards.

Fifth. To cause to be erected, or otherwise provided, suitable buildings for, and maintain, a county insane asylum, and provide for the management of the same.

34. Whenever any grant, gift, donation, devise or bequest of real or personal property has been or shall be, directly or indirectly, made to or for the use of the state or any state hospital or asylum for the insane, or other charitable or educational institution of the state, and the deed, will or other instrument by which such grant, gift, donation, devise or bequest is made declares that such property shall be held, managed, improved and invested or otherwise disposed of for the benefit of such institution or other charitable use, the title to such property may and shall be taken to be vested in the state for the use so expressed, and shall be held, managed, improved, invested or disposed of by the trustees of such institution or other officers, thereto duly authorized, in such manner as will best promote and carry into effect the purpose and intention of the person making such grant, gift, donation, devise or bequest, as expressed in the instrument by which the same was or shall be so made.

35. All residents of the state of Illinois who are or may become inmates of any of the state charitable institutions shall receive their board, tuition and treatment free of charge during their stay. The residents of other states may be admitted to said institutions upon the payment of the just costs of said board, tuition and treatment; *provided*, that no resident of another state shall be received or retained to the exclusion of any resident of the state of Illinois; *and provided further*, that should any inmate be unwilling to accept gratuitous board, treatment or tuition, then any superintendent of a state charitable institution is hereby authorized to receive payment therefor, and is required to account for the same in an itemized monthly or quarterly statement to the trustees, as donations, duly credited to the persons from whom they were received; and if any superintendent shall receive any moneys for the purpose of furnishing extra attention and comforts to any inmates of the institution under his charge, he shall account for the same, and for the expenditures, in like manner, to the trustees.

36. From and after the first of July, 1881, the state shall be divided into four (4) districts, for the purpose of regulating the admission of patients into the state hospitals for the insane, as follows:

Ch. 23, § 1.
Effect of deed,
devise, etc.,
to state.

Ibid § 44.
Who admitted
to charitable
institutions,
terms, volun-
tary pay-
ments.

Ibid § 52.
State divided
into districts.

The Illinois Northern Hospital, at Elgin, shall be set apart for the accommodation and care of the insane of the counties of Boone, Carroll, De Kalb, DuPage, Jo Daviess, Kane, Kendall, Lake, La Salle, Lee, McHenry, Ogle, Stephenson, Whiteside, Winnebago, and a portion of the insane of Cook County.

The Illinois Eastern Hospital for the Insane, at Kankakee, shall be set apart for the insane of the counties of Ford, Grundy, Iroquois, Kankakee, Livingston, Vermilion, Will, Champaign, and a portion of the insane of Cook county.

The Illinois Central Hospital for the Insane, at Jacksonville, shall be set apart for the insane of the counties of Adams, Brown, Bureau, Calhoun, Cass, Christian, DeWitt, Fulton, Greene, Hancock, Henderson, Henry, Jersey, Knox, Logan, Macon, Macoupin, Marshall, Mason, McDonough, McLean, Menard, Mercer, Montgomery, Morgan, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Stark, Tazewell, Warren and Woodford.

The Illinois Southern Hospital for the Insane, at Anna, shall be set apart for the insane of the counties of Alexander, Bond, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Moultrie, Perry, Pope, Pulaski, Randolph, Richland, Saline, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson.

37. Each of the counties of this state shall hereafter be entitled to have and keep in the hospital at all times a number of patients proportioned to its population; the ratio of one (1) patient to every two thousand (2,000) of the population of said county, as shown by the census of 1880, as per the following schedule:

Ibid § 53.
Number of
patients to
each county.

COUNTIES.	NO. OF PATIENTS.	COUNTIES.	NO. OF PATIENTS.	COUNTIES.	NO. OF PATIENTS.
Adams	30	Hardin	3	Morgan	16
Alexander	7	Henderson	6	Moultrie	7
Bond	7	Henry	18	Ogle	15
Boone	6	Iroquois	18	Peoria	28
Brown	7	Jackson	11	Perry	8
Bureau	17	Jasper	7	Piatt	8
Calhoun	4	Jefferson	10	Pike	17
Carroll	8	Jersey	8	Pope	7
Cass	7	Jo Daviess	14	Pulaski	5
Champaign	20	Johnson	7	Putnam	3
Christian	14	Kane	22	Randolph	13
Clark	11	Kankakee	12	Richland	8
Clay	8	Kendall	7	Rock Island	19
Clinton	9	Knox	20	Saline	8
Coles	14	Lake	11	Sangamon	26
Cook	304	La Salle	35	Schuyler	9
Crawford	8	Laurence	7	Scott	5
Cumberland	7	Lee	14	Shelby	15
De Kalb	13	Livingston	19	Stark	6
De Witt	9	Logan	13	St. Clair	31
Douglass	8	Macon	15	Stephenson	16
Du Page	10	Macoupin	19	Tazewell	14
Edgar	13	Madison	25	Union	9
Edwards	4	Marion	12	Vermilion	21
Effingham	9	Marshall	8	Wabash	5
Fayette	12	Mason	8	Warren	12
Ford	8	Massac	5	Washington	11
Franklin	8	McDonough	14	Wayne	11
Fulton	21	McHenry	12	White	12
Gallatin	6	McLean	30	Whitesides	15
Greene	12	Menard	7	Will	27
Grundy	8	Mercer	10	Williamson	10
Hamilton	8	Monroe	7	Winnebago	15
Hanwell	18	Montgomery	14	Woodford	11

Of the three hundred and four (304) beds assigned to the county of Cook, seventy-five (75) shall be in the hospital at Kankakee, and two hundred and twenty-nine (229) at Elgin, and the county court of said county, shall have the right to send any individual patient to one or the other of the said hospitals, at the discretion of the court, in accordance with the circumstances in each case, but not exceeding the quota herein named.

38. The county board, or board of supervisors, as the case may be, of all counties from which there are, or hereafter may be patients committed as paupers to either of the state hospitals for the insane, is hereby

Ibid § 54.
Settlement,
every six
months.

directed and required to make settlement in full, as often as once in every six (6) months, for all just charges for clothing, and other proper incidental expenses, and to pay the amount due said hospitals in money, or negotiable paper worth its face, without discount.

39. In case any county shall fail, and refuse to pay every just and reasonable account presented by any one of the state hospitals for the insane, and the same shall remain unpaid for one (1) year after it is due, then the trustees of the said hospital shall apply to the circuit court, in and for the said delinquent county, for a writ of *mandamus* upon the county treasurer of said county, requiring him to pay the said over-due account, and upon proof made of the justice of the claim, the circuit court shall issue such writ.

Ibid § 55.
If county fails
or refuses
to settle,
mandamus.

40. All beds not assigned to the several counties, as per schedule in section two (2) of this act, shall be reserved for the reception and care of recent cases of insanity, or other cases having special claim to relief, without respect to the counties from which such cases are sent; and in case the hospital at Kankakee shall be completed or partially completed before the next session of the general assembly, the trustees may admit patients at discretion, from outside the district in which said hospital is situated, but they shall give the preference to applications for the admission of such patients as are capable of labor on and about the grounds of the hospital, in order that the state may receive the benefit of such labor.

Ibid § 56.
Beds not assigned,
admission.

41. Any patients who may be in any state hospital for the insane from outside the limits of the district for which said hospital is designed, as expressed in the first section of this act, shall, as soon after this act takes effect as may be convenient, be transferred to the hospital in and for the district to which they belong; and the expenses of such transfer, shall be defrayed from the state treasury, in the same manner as the cost of conveying convicts to the penitentiary is defrayed; *provided*, that the bills rendered for this service, shall show all the items of expense actually incurred, and be accompanied by sub-vouchers for each item, and no amount shall be allowed or paid by the auditor of public accounts in excess of such actual expense.

Ibid § 57.
Patients to be
transferred.

42. When any person is supposed to be insane or distracted,
Ch. 85, § 1.
Petition for
investigation. any near relative, or in case there be none, any respectable person residing in the county may petition the judge of the county court for proceedings to inquire into such alleged insanity or distraction. For the hearing of such application and proceedings thereon, the county court shall be considered as always open.

43. Upon the filing of such petition, the judge shall order
Ibid § 2.
Writ service. the clerk of the court to issue a writ, directed to the sheriff or any constable, or the person having the custody or charge of the alleged insane or distracted person, unless he shall be brought before the court without such writ, requiring the alleged insane person to be brought before him at a time and place to be appointed for the hearing of the matter. It shall be the duty of the officer or person to whom the writ is directed to execute and return the same, and bring the alleged insane person before the court as directed in the writ.

44. The clerk shall also issue subpoenas for such witnesses
Ibid § 3.
Subpoenas. as may be desired on behalf of the petitioner, or of the person alleged to be insane, to appear at the time fixed for the trial of the matter.

45. At the time fixed for the trial, a jury of six persons,
Ibid § 4.
Jury trial. one of whom shall be a physician, shall be impaneled to try the case. The case shall be tried in the presence of the person alleged to be insane, who shall have the right to be assisted by counsel, and may challenge jurors as in civil cases. The court may, for good cause, continue the case from time to time.

46. After hearing the evidence, the jury shall render their
Ibid § 5.
Verdict, form. verdict in writing, signed by them, which shall embody the substantial facts shown by the evidence, which verdict may be substantially in the following form:

State of Illinois, }
 " County, } ss.

We, the undersigned, jurors in the case of (naming the person alleged to be insane), having heard the evidence in the case, are satisfied that said is insane, and is a fit person to be sent to a state hospital for the insane; that he is a resident of the state of Illinois, and county of ;

that his age is ; that his disease is of duration; that the cause is supposed to be (or is unknown); that the disease is (or is not) with him hereditary; that he is not (or is) subject to epilepsy, and that he does (or does not) manifest homicidal or suicidal tendencies. [If the person be a pauper, the fact shall also be announced in the verdict.]

47. Upon the return of the verdict, the same shall be recorded at large by the clerk, and if it appears that the person is insane, and is a fit person to be sent to a state hospital for the insane, the court shall enter an order that the insane person be committed to a state hospital for the insane, and thereupon it shall be the duty of the clerk of the court to make application to the superintendent of some one of the state hospitals for the insane for the admission of such insane person.

*Ibid § 6.
Verdict re-
corded, order
of committal,
application.*

48. If such insane person is a pauper the application shall be first made to the nearest hospital, but if he be not a pauper, application shall be made to such one of the state hospitals for the insane as the relatives or friends of the patient shall desire. In any case, if, on account of the crowded condition of any one of the hospitals, or for other good reason, the patient cannot be received therein, or it is not desirable to commit him thereto, he may be committed to any other of said hospitals. Upon receiving any such application, the superintendent shall immediately inform the clerk whether the patient can be received, and if so, at what time; and if not, shall state the reason why.

*Ibid § 7.
To which hos-
pital, applica-
tion, etc.*

49. Upon receiving notice at what time the patient will be received, the clerk shall, in due season for the conveyance of the person to the hospital by the appointed time, issue a warrant directed to the sheriff or any other suitable person, preferring some relative of the insane person when desired, commanding him to arrest such insane person and convey him to the hospital; and if the clerk is satisfied that it is necessary, he may authorize an assistant to be employed.

*Ibid § 8.
Warrant to
commit.*

50. The warrant may be substantially as follows:

State of Illinois, }
County, } ss.

*Ibid § 9.
Form of
warrant.*

The People of the State of Illinois, to

You are hereby commanded forthwith to arrest _____, who has been declared to be insane, and convey him to the Northern (or as the case may be) Illinois Hospital for the Insane, (and you are hereby authorized to take to your aid an assistant, if deemed necessary,) and of this warrant make due return to this office after its execution.

Witness my hand and the seal of the county court of _____ county, this _____ day of _____, A.D.

[L. S.] _____ Clerk of the county court _____ county.

51. Upon receiving the patient, the superintendent shall _____, indorse upon said warrant a receipt as follows:
Ibid § 10. Indorsement, return. Northern (or as the case may be) Illinois Hospital for the Insane. Received this _____ day of _____, A. D. _____, the patient named in the within warrant.

_____, Superintendent.

This warrant, with a receipt thereon, shall be returned to the clerk, to be filed by him with the other papers relating to the case.

52. No person having any contagious or infectious disease, and no idiot, shall be admitted to either of the state hospitals. When the trustees and superintendent shall find that an idiot has been received into the hospital, they may discharge him.
Ibid § 11. Who not admitted; idiots discharged.

53. If the court shall deem it necessary, pending proceedings and previous to verdict, or after verdict and pending admission to the hospital, temporarily to restrain of his liberty the person alleged to be insane, then the court shall make such order in that behalf as the case may require, and the same being entered of record, a copy thereof certified by the clerk shall authorize such person to be temporarily detained by the sheriff, jailor or other suitable person to whom the same shall be directed.
Ibid § 12. Temporary commitment.

54. When a person, not a pauper, is alleged to be insane, and is found by the jury not to be insane, the costs of the proceeding, including the fees of the jury, shall be paid by the petitioner, and judgment may be awarded against him therefor. If such person is found to be insane, such costs shall be paid by his guardian, conservator, or rela-
Ibid § 13. Costs.

tives, as the court may direct. If the person alleged to be insane is a pauper, the costs of the proceeding, including the fees of the jury, shall be paid out of the county treasury. *Provided*, if such pauper is found not to be insane, the court may, in its discretion, award the costs against the petitioner.

55. The expense of conveying a pauper to the hospital shall be paid by the county in which he resides, and that of any other patient by his guardian, conservator or relatives; and in no case shall any such expense be paid by the state, or out of any funds for the insane. The fees of the sheriff for conveying any person to a hospital shall be the same as for conveying convicts to the penitentiary.

Ibid § 14.
Who to pay
expenses,
sheriff's fees.

56. If the person be not a pauper, then one or more persons, relatives or friends of the patient, shall, upon his admission into the hospital, become responsible to the trustees for finding the patient in clothes, and removing him when required; and shall execute a bond conditioned as follows, viz.:

Ibid § 15.
Bond to fur-
nish clothing,
etc.

Know all men by these presents, that we and , of the county of and state of Illinois, are held and firmly bound unto the trustees of the Northern (or as the case may be) Illinois Hospital for the Insane, in the sum of one hundred dollars (\$100), for the payment of which we jointly and severally bind ourselves firmly by these presents.

The condition of this obligation is, that whereas , insane person of the county and state aforesaid has been admitted as a patient into said hospital for the insane: now, therefore, if we shall find said patient in suitable and sufficient clothing whilst may remain in said institution, and shall promptly pay for such articles of clothing as it may be necessary to procure for said , at the hospital, and shall remove from said hospital when required by the trustees to do so, then this obligation to be void; otherwise to remain in full force.

Witness our hands and seals, this day of , A. D.
18 .

, [Seal].

, [Seal].

57. The clothing to be furnished each patient upon being sent to the hospital, shall not be less than the following: for a male, three new shirts, a new and sub-

Ibid § 16.
Clothing.

stantial coat, vest, and two pairs of pantaloons of woolen cloth, three pairs of woolen socks, a black or dark stock or cravat, a good hat or cap, and a pair of new shoes or boots, and a pair of slippers to wear within doors. For a female, in addition to the same quantity of undergarments, shoes and stockings, there shall be two woolen petticoats or skirts, three good dresses, a cloak or shawl, and a decent bonnet. Unless such clothing be delivered in good order to the superintendent, he shall not be bound to receive the patient.

58. If the insane person be a pauper, it shall be the duty of the judge of the county court to see that he is furnished with the necessary amount of substantial clothing at the time he is sent to the hospital, and from time to time while he remains a patient in the hospital, and that he be removed therefrom when required by the trustees; the expense of such clothing and removal shall be paid out of the county treasury, upon the certificate of the judge of the county court.

59. Whenever the trustees shall order any patient discharged, the superintendent shall at once notify the clerk of the county court of the proper county thereof, if the patient is a pauper, and if not, shall notify all the persons who signed the bond required in section 15 of this act, and request the removal of the patient. If such patient be not removed within thirty days after such notice is received, then the superintendent may return him to the place from whence he came, and the reasonable expenses thereof may be recovered by suit on the bond, or in case of a pauper, shall be paid by the proper county.

60. Whenever application shall be made for a patient not residing within the state, if the superintendent shall be of opinion that from the character of the case it is probably curable, and if there be at the time room in the hospital, the trustees, in their discretion, may order the patient to be admitted, always taking a satisfactory bond for the maintenance of the patient, and for his removal, when required. The rate of maintenance in such cases shall be fixed by the trustees, and two months pay in advance shall be required. But no such patient shall be detained without the order of a court of competent jurisdiction, or a verdict of a jury.

Ibid § 17.
Paupers,
county to fur-
nish clothing,
etc.

Ibid § 18.
Discharge of
patient,
notice, re-
moval.

Ibid § 19.
Non-resident
patients.

61. When any patient shall be restored to reason, he shall have the right to leave the hospital at any time, and if detained therein contrary to his wishes after such restoration, shall have the privilege of a writ of *habeas corpus* at all times, either on his own application, or that of any other person in his behalf. If the patient is discharged on such writ and if it shall appear that the superintendent has acted in bad faith or negligently, the superintendent shall pay all the costs of the proceeding. Such superintendent shall moreover be liable to a civil action for false imprisonment.

Ibid § 20.
Restoration to
reason; dis-
charged.

Supt. liable
for false im-
prisonment.

62. This act shall not be construed to prevent the committing of any insane pauper to the hospital for the insane of the county in which he may reside, where such a hospital is provided.

Ibid § 21.
County hospi-
tal.

63. No superintendent, or other officer or person connected with either of the state hospitals for the insane, or with any hospital or asylum for insane or distracted persons, in this state, shall receive, detain or keep in custody, at such hospital or asylum, any person who shall not have been declared insane by the verdict of a jury, and authorized to be confined by the order of a court of competent jurisdiction; and no trial shall be had of the question of the sanity or insanity of any person before any judge or court, without the presence of the person alleged to be insane.

Ibid § 22.
Trial by jury
necessary.

64. If any superintendent, or other officer or person connected with either of the state hospitals for the insane, or with any hospital or asylum for insane or distracted persons, in this state, whether public or private, shall receive or detain any person who has not been declared insane by the verdict of a jury, and whose confinement is not authorized by the order of a court of competent jurisdiction, he shall be confined in the county jail not exceeding one year, or fined not exceeding \$500, or both, and be liable civilly to the person injured for all damages which he may have sustained; and if he be connected with either of the insane hospitals of this state, he shall be discharged from service therein.

Ibid § 23.
Penalty.

65. Clergymen of all denominations shall be admitted freely and without hindrance or restraint to visit at pleasure any inmate confined in any * * * charitable

Ch. 108, § 50.
Free access of
clergymen.

institution belonging to the state of Illinois, subject to such rules and regulations as may be established by the officers in charge of said institutions; *provided, however*, that the clergyman so applying shall produce to the officers in charge of such institution, visited as aforesaid, satisfactory evidence from the church authorities to which he belongs that he is a clergyman in good standing.

66. It shall be the duty of the warden, superintendent, or other officer in charge of any institution mentioned in section one (1) of this act to permit the ministrations of religion according to the rites and ceremonies of the church to which the visiting clergyman belongs, and to aid and assist such of the inmates, as aforesaid, who may desire it, to the comforts of religion at the hands of a clergyman of his or her own selection.

67. The warden, superintendent, or other officer mentioned in this act, who shall refuse, neglect or fail to comply with the provisions herein, shall be liable to dismissal from his said office by the person or persons by whom he shall have been appointed.

68. A lunatic or insane person, without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he may be charged; *provided*, the act so charged as criminal shall have been committed in the condition of insanity. If, upon the trial of a person charged with crime, it shall appear from the evidence that the act was committed as charged, but that, at the time of committing the same, the person so charged was lunatic or insane, the jury shall so find by their verdict, and by their verdict shall further find whether such person has or has not entirely and permanently recovered from such lunacy or insanity; and in case the jury shall find such person has not entirely and permanently recovered from such lunacy or insanity, the court shall cause such person to be taken to a state hospital for the insane, and there kept in safety until he shall have fully and permanently recovered from such lunacy or insanity; but in case the jury shall find by their verdict that such person has entirely and permanently recovered from such lunacy or insanity, he shall be discharged from custody.

69. A person that becomes lunatic or insane after the com-

Ibid § 51.
Warden, etc.,
to permit min-
istrations.

Ibid § 52.
Penalty.

Ch. 38, § 284.
Insane not to
be convicted;
 proviso.

Jury to try in-
sanity.

mission of a crime or misdemeanor shall not be tried for the offense during the continuance of the lunacy or insanity. If, after the verdict of guilty, and before judgment pronounced, such person become lunatic or insane, then no judgment shall be given while such lunacy or insanity shall continue. And if, after judgment and before execution of the sentence, such person become lunatic or insane, then in case the punishment be capital, the execution thereof shall be stayed until the recovery of said person from the insanity or lunacy. In all of these cases, it shall be the duty of the court to impanel a jury to try the question whether the accused be, at the time of impaneling, insane or lunatic.

Ibid § 235.
Insane after conviction.

After judgment.

70. If any case of insanity shall occur in said penitentiary, such insane person shall at once be removed to the insane hospital, at Jacksonville, or other similar hospital under the control of the state, at the expense of the state; and should said patient recover before his or her time of imprisonment shall expire, he or she shall be returned to said penitentiary; and it is hereby made the duty of the superintendent of the said hospital for the insane to receive into said hospital and treat all such insane convicts as in other cases of insanity.

Ch. 103, § 42.
Insane convicts removed to asylum.

Return to prison.

INDIANA.

GOVERNMENT OF ASYLUM.

1. Title; board of trustees, appointment, term of office.
2. Removal; vacancies, how filled.
3. Bond and oath; organization, invested with control of asylum.
4. Annual inventory of property, expenditures, statistics, report submitted to trustees by outgoing managers.
5. Trustees, by-laws, meetings, statement, payment of bills.
6. Treasurer to make itemized statement.
7. Superintendent, appointment, residence, assistants; bond, powers.
8. Superintendent's statement of expenditures and receipts; moneys covered into state treasury.
9. Trustees, report of expenses, payment and receipts, recommendations; nepotism forbidden.
10. Unexpended appropriations covered into state treasury.
11. Trustees, salaries of.
12. Interest in contracts forbidden.
13. Neglect of duties, penalties for.
14. Unauthorized borrowing forbidden.
15. Penalties for same.
16. Trustees; powers and duties, appointment of officers, salaries, by-laws and regulations.
17. Annual inspection of asylum.
18. Reports submitted to legislature.
19. Corporate powers granted.
20. Superintendent; qualification, term of office, salary.
21. His powers and duties; control of officers, admission and discharge.
22. Official seal to be provided.
23. Bond of officers, form of prescribed.
24. Evidence of superintendent taken by deposition.
25. Asylums open to the public.
26. Street railway through grounds.
27. Reports to governor to be itemized.
28. Continuing appropriations.
29. Application of money.

30. Warrants, how drawn and paid.
31. Limit of monthly allowance.

CONSTRUCTION OF NEW ASYLUMS.

32. Commission for construction of asylums, appointment.
33. Selection of sites.
34. Purchase of land.
35. Contract for building; interest in forbidden.
36. Report of commissioners.
37. Superintendents for construction, appointment and duties.
38. Contracts under control of board.
39. Removal of superintendents.
40. Compensation of board.
41. Appropriation for construction.
42. Expenses of maintenance of asylums, borne by state.
43. Superintendent and officers, appointment of.
44. Rules for admission and discharge.
45. Authority to purchase buildings.
46. Capacity of asylums prescribed.
47. Regulations of Indiana asylum to apply to new asylums.

ADMISSION AND DISCHARGE.

48. Who may be admitted.
49. Application for trial, interrogatories to be answered.
50. Personal examination by justices and physician.
51. Subpoena of witnesses.
52. Examination of witnesses.
53. History of the case by the regular medical attendant.
54. Physician's certificate.
55. Justices' certificate.
56. Filing of certificate.
57. Application to superintendent.
58. Superintendent's action thereon; preferences.
59. Rejected applications, renewal of after six months.
60. Idiots not to be admitted.
61. Warrant of commitment, form of, execution.

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| <p>62. Clothing to be supplied.</p> <p>63. Application for readmission, regulations for.</p> <p>64. Discharge after recovery; harmless incurables; dangerous insane not to be discharged.</p> <p>65. Discharge from asylum, regulations.</p> <p>66. Re-examination for admission after lapse of six months from application.</p> <p>67. Blanks supplied to clerk of court.</p> <p>68. Escape, proceedings upon.</p> <p>69. Habeas corpus, allowed once in three months.</p> <p>70. Discharged patients supplied with clothing and money.</p> <p>71. Preferences to certain classes.</p> <p>72. Fees for examination and commitment.</p> <p>73. Incurable insane to be cared for.</p> <p>74. Incurable insane, similar regulations for admission of.</p> | <p>75. Females, confinement of, in department for women.</p> <p>76. Males, confinement of, in department for men.</p> <p>77. Application for arrest, warrant.</p> <p>78. Venire, to issue.</p> <p>79. Examination and hearing.</p> <p>80. Verdict against defendant, custodian appointed.</p> <p>81. Certification to circuit court; retrial; appointment of custodian confirmed.</p> <p>82. Expenses of proceedings.</p> <p>83. Guardian, when appointed.</p> <p>84. Verdict in favor of defendant, appeal to circuit court.</p> <p>85. Commitment to asylum under foregoing provisions.</p> <p>86. Insanity to be pleaded specially.</p> <p>87. When acquitted of criminal charge to be tried for insanity, regulations for trial.</p> |
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1. The governor, with the consent of the senate, shall appoint two trustees, * * * * for the hospital for the insane; and with the like consent of the senate, he shall appoint a president of the boards of trustees of the said institutions. The president and two trustees of each of said institutions shall constitute the board of trustees for the government thereof. Such appointments shall be made within five days after the taking effect of this act, and the terms of said trustees shall expire as follows: one for each of said institutions, to be designated in the appointment, shall expire on the first of February, 1881, and the others on the first of February, 1883; and the term of the said president of the boards, so appointed, shall expire on the first day of February, 1883. After such appointment, the governor shall, on the first day of January, 1881, and biennially thereafter, appoint one trustee for each of said institutions, and on the first day of January, 1883, and every four years thereafter, he shall appoint a president of the said boards of trustees, whose term shall begin on the first of February next succeeding; and the terms of the said officers and their successors shall be four years. He shall report such appointments to the senate for its concurrence; and if the senate shall refuse to confirm such appointments, he shall appoint other suitable persons, and in like manner report to the senate: *pro-*

Revised Statutes of 1881.
§ 2768.
President and board of trustees.

Appointment of officers.

vided, if the senate fail to confirm the first appointments above provided for, then the present trustees and commissioners of said institutions, and the president of said board, shall hold their offices and positions by virtue of this act only, and shall be subject to all its provisions; and they, or any of them, may be removed at the pleasure of the governor, and the appointees to fill such vacancies shall constitute the new boards, as herein provided.

Power of the governor to remove officers. 2. The governor shall have power to remove any of the said trustees, or the said president, upon failure to faithfully discharge their duties, or for any inefficiency or any other cause that to him may seem just, with opportunity to the party to answer and defend against the charges, he being suspended during the inquiry, and appoint other competent persons to fill the vacancies thereby created for the unexpired term; and in such cases he shall report the said removal and appointment, with the statement of the cause thereof, to the senate within five days after the first day of the next succeeding session thereof; or, if the senate be in session at the time of such removal, then within five days thereafter. If a vacancy shall occur by death, resignation, or other cause, the governor shall appoint a competent person to fill the vacancy for the unexpired term, and shall report such appointment to the senate, if in session, and if not, then to the next succeeding session; but if such appointment be not confirmed, the governor shall appoint some other competent person; and immediately report such appointment to the senate, for confirmation.

§ 2770. Bond and oath. 3. The said trustees and the president shall, each, before entering upon the duties of office, give a bond payable to the state of Indiana in such sum as the governor may require, and shall take an oath to faithfully discharge their several duties as such officers. The said officers, first appointed, shall give such bond and take such oath within ten days after their appointment, and shall thereupon enter on the discharge of the duties of their office. The boards shall organize by the selection of one member as treasurer and one as secretary, and the president of the boards shall be the president of each board respectively. As soon as the boards, or either of them, are organized, the boards of trustees and the

board of commissioners, now severally having charge of the said institutions, shall deliver and surrender to the proper boards created by this act, all books, papers, moneys, and property, of whatever kind or nature, belonging to or connected with said institutions, or belonging to the state and under their charge or control; and they shall, in like manner, surrender and deliver up to said new boards the care, custody, and management of the said institutions and all the affairs thereof. And the superintendents or managers of the said institutions, and the subordinate teachers, physicians, and employes thereof, shall, thereafter, hold their positions and perform their duties under and by virtue of this act, and under the control and direction of the new boards created by this act.

Duties of officers of institution, etc.

4. Such superintendents or managers shall, within thirty days after the taking effect of this act, each make § 2771. out and deliver to the proper board of trustees of Annual inventory. each of said institutions a complete itemized inventory and statement, subscribed and sworn to by him, setting forth in detail all the property, both real and personal, belonging to said institutions, or belonging to the state and connected therewith, or in use in and about the same. Such statement shall give the quality and condition of such property and the value thereof, where it is and for what purpose or in what way it is used, and shall also give a detailed and itemized account of all products raised and consumed, and of each parcel of property, including hides, tallow, flowers, farm products, goods, or merchandise, and all other articles, sold or otherwise disposed of during the year last past, by such superintendent or manager or by the trustees or subordinates of said institutions; to whom the same was sold, and for what price; who received the money, and for what purpose it was used. Said statement shall contain a detailed and itemized statement of all the expenditures, during the past year, for repairs upon the buildings or grounds, and for furniture and other articles A written inventory necessary of hides, etc. purchased for the use of the said institutions, or in and about the same; and a detailed and itemized statement of all the articles of wearing apparel, goods, merchandise, or property received during the past year with or for any of the inmates; what became of such property; whether any, if so what,

amounts are on hand yet; what amount of like goods or wearing apparel has been, during said time, purchased for each of the inmates, and what amount of moneys have been received therefor, and from what counties so received, who received such moneys, and for what purpose they have been used. It shall also give a general account of the affairs of the institution, the number of inmates received, from what counties they came, the number discharged and the cause therefor, and the condition of the inmates, and the wants and requirements of the institution.

A like report, inventory, and statement shall be annually made, on the thirty-first day of October in each year, to each of the said boards of trustees, who may prescribe additional and other matter to be included therein. Such reports, after due examination and action thereon by the boards, shall be delivered to the governor, who shall transmit them to the general assembly, at each regular session thereof.

5. The president and trustees of each of said institutions shall be and constitute a board for the management of the business and affairs thereof, with power to make all proper rules, regulations and by-laws for its government. They shall have a regular meeting at or about the close of each month; and shall meet at least one other time during each month, for the purpose of informal consultation, or the transaction of current and incidental business. They shall keep a record of their proceedings and acts, and of all moneys received or paid out, and of all orders drawn or paid. No moneys shall be paid out or expended, except upon an itemized bill first presented and allowed by the board. Such bill shall be signed and sworn to by the claimant, and such payment shall be made by an order signed by the president and drawn upon the treasurer of the institutions, payable ten days from the drawing thereof. Such itemized bills shall be carefully preserved, and be numbered to correspond with the order drawn for the payment thereof; and no bill shall be allowed for more than the lowest cost value of the articles purchased or services or materials paid for; and all contracts made for articles, materials, or services shall be subject to the allowance by said board.

§ 2772.
By-laws,
meetings,
bills.

Record of
money re-
ceived and
paid out.

Contracts.

6. The treasurer shall, from time to time, before such orders become due, present to the auditor of state a statement of all orders drawn and then unpaid, giving the date and number and amount of each order, and the person to whom payable, which shall be signed and sworn to by the treasurer and certified to by the president of the boards; and the auditor of state shall thereupon draw an order for the amount, in favor of such treasurer, upon the treasurer of state, who shall pay the amount out of any money in his hands subject to such payment. The auditor of state shall open and keep an account with the treasurer of each of said institutions, and shall charge him with the orders so drawn upon the state treasurer. The treasurer of said institutions shall, at the close of each month, return to the auditor of state an itemized statement of the orders paid by him and the amounts thereof, signed and sworn to as being correct, and, with such statement, shall return to the auditor the orders so paid; the auditor of state shall thereupon credit the said treasurer with the amounts so paid out by him, and shall carefully preserve all such orders and statements.

§ 2773.
Treasurer's
statement of
unpaid orders.

Itemized
statement
necessary.

7. The board of each of said institutions shall appoint a superintendent thereof, who may reside in the institution; and the superintendents, with the approval of the board, may appoint such subordinate officers, secretaries, assistants, physicians, teachers, attendants, and employes as may be necessary; but the board shall prescribe the number to be employed, and provide rules for their government and control, and fix the amount of compensation for their services, including the superintendent, who shall not be paid more than two thousand dollars per annum. Such superintendent shall be skilled and qualified, by education and practice, to take charge of the institution for which he is appointed, and shall give a bond for the faithful performance of his duties and for the payment of all damages arising from their non-performance. Such bond shall be payable to the state of Indiana, in such sum as required by the board and to their approval; and suit may be brought thereon by the state, or by the state on the relation of any person injured. The superintendents shall take personal charge and supervision of their respective institutions and of

§ 2774.
Superintendent
and sub-
ordinates.

Bond payable
to state.

the inmates therein, and of the subordinate officers, teachers, attendants, and employes connected therewith, subject to the rules and regulations prescribed and to the orders and general control of the board of trustees. He may, for good cause, discharge any of such subordinates and employes, and Attendants and employes. appoint other competent persons in their places; which appointment shall continue only until the next meeting of the board, at which time the superintendent shall report all such changes, and the causes therefor; and the board may confirm such appointments; and, if not confirmed, he shall make other suitable appointments, subject to the confirmation of said board.

8. The superintendent shall, at or about the close of each § 2775 Purchase of supplies. month, make out, for the information of the board, an itemized statement and estimate of the amount and kind of purchases required for the next succeeding month; and it shall be the duty of the board of trustees to solicit competition among dealers for the sale of such articles and goods as may be required, by publication or otherwise; and to this end they shall keep such statement and estimate open to public inspection, and shall give personal attention to the bids for and the purchase of such articles and goods, and use their best endeavors to obtain them at the lowest public prices. The superintendents shall also make out and file with the Individual expense of each lunatic necessary. board, at each regular meeting, an itemized statement of all moneys paid out or expenses incurred for each of the inmates since the last report, showing the counties to which the inmates belong, and the total amount chargeable to each county. Such statement shall be filed with the treasurer of state, who shall charge the same to the proper county, and collect the amount due from such county at each settlement with the treasurer thereof; and such moneys shall be covered into the general fund of the state treasury. The superintendent shall also, at each regular meeting, make out and file with the board, a complete and itemized statement of all money received, since his last report, from the sale of hides, tallow, farm or garden products, or flowers, and from any and all other sources whatever, stating the date and transaction, and from whom the money was received. Money matters. Such money shall be, by him, at that time, paid over to the treasurer of the institution, who shall

give his receipt therefor, and shall immediately pay the same over to the treasurer of state, who shall give his receipt therefor, and cover and transfer the amount into the general fund of the treasury; and all moneys payable, by law, to or for the benefit of either of said institutions, except the appropriations made therefor, shall, in all cases, be paid over to the state treasurer, who shall cover and transfer the same into the general fund of the treasury.

9. The board of trustees shall have power to make allowances for the payment of any money required or authorized by law to be paid, or for the improvement, preservation, and care of their several institutions, and the grounds and property connected therewith, and the expenses thereof, the payment of employes and other expenses; but such allowances shall only be made upon an itemized statement of the superintendent, showing the cause and necessity therefor; and all payments shall be made only by orders drawn on the treasurer of such institution in the manner herein provided. They shall severally make a report to the governor, at the close of each fiscal year, giving a full statement of their receipts, disbursements, and operations during the year preceding; the number of inmates received, discharged, and then in the institution; the cost *per capita* for the year; the estimated cost for the next succeeding year; and all things necessary to show the condition and management of the same, together with any recommendations or suggestions they may deem proper for the better and more efficient government and welfare thereof; which reports the governor shall transmit to the general assembly, with his message, at each regular session thereof. In such reports they shall show what amount has been expended for repairs upon the buildings and for permanent improvements, in a separate account from the ordinary expenses of the institution. They shall not appoint, nor allow to be appointed, any relative of their own, or of either of them, either by blood or marriage; and they shall not allow any of the relatives or members of the family, except the wife and children of such officers whose regular home has been and is with him, of any superintendent or other subordinate or employe to be kept, maintained or supported in the institution, without

§ 2776.
Expenses, report; nepotism forbidden.

Receiving and discharging of inmates.

Money expended on improvement.

charging to such persons the full value of such maintenance and support, unless such relative or member of the family be regularly employed and paid, as one of the subordinates or employes thereof.

10. The treasurer of state shall, biennially, cover and transfer into the general fund of the treasury all moneys appropriated and unexpended at the close of the fiscal year, immediately preceding each regular session of the general assembly.

§ 2777.
Unexpended
balances.

11. The president of the boards shall receive, as compensation for his services, a salary, payable quarterly, at the rate of nine hundred dollars per annum; and the trustees of the insane asylum shall, in like manner, be paid salaries at the rate of six hundred dollars to each; * * * said salaries to be paid on the warrant of the auditor out of any money in the treasury subject to such payment.

§ 2778.
Salaries.

12. It shall be unlawful for any person connected with said institutions as president, trustee, superintendent, subordinate, or employes, to be pecuniarily interested in any contract for or purchase of supplies or materials, or to make or receive any profits, percentages, or deductions, or any reward or benefit whatever out of the management or operation, or business of the said institutions, other than the fees and compensation for his services established and allowed by law.

§ 2779.
Restriction on
officers.

13. Any person violating any of the provisions of this act shall, upon conviction, be punished by imprisonment in the state prison for a period not less than six months and not more than five years, and shall be fined in any sum not more than five thousand dollars.

§ 2780.
Penalty; violation of laws;
imprisonment.

14. It shall be unlawful for the board of trustees of any benevolent, scientific, reformatory, or educational institution of the state to borrow money upon the credit of the state, or to contract any indebtedness on the credit of the state, or to make expenditures for improvements for said institutions in any way, unless the said loans or expenditure of money are first authorized by an act of the general assembly for such purposes.

§ 2781.
Borrowing
forbidden.

15. Any trustee or trustees, of any such institution who shall violate the provisions of the foregoing section, shall be deemed guilty of a misdemeanor, and,

§ 2782.
Penalty.

upon conviction thereof, shall be fined in any sum not less than five hundred dollars, and shall forfeit his office upon conviction; which forfeiture shall be part of the judgment of the court.

16. The trustees shall be intrusted with the general control and management of the hospital. They shall pre-
§ 2835.
Duties of
trustees.
 scribe by-laws for the government of the same, and
 conduct its affairs agreeably to the laws in force and such by-laws as they may establish. They shall have authority to appoint a superintendent to take charge of the patients and hospital, and to appoint a matron and such assistant physicians, stewards, and other principal officers as may
Appointment
of officers.
 be needed for the efficient and economical administration of the affairs of the institution. They shall, in their by-laws, prescribe the duties of their respective officers, their tenure of office, and determine their salaries, except as otherwise provided by law. The trustees may, at their pleasure, remove from office any officer of said institution, except the superintendent; and they may remove the superintendent for incompetency, wilful neglect, or refusal to discharge any of his duties, or for any misconduct on his part which might render it improper for him to continue longer in his said office.

17. Two of the trustees shall visit the hospital together, monthly; a majority of them together, semi-annu-
§ 2836.
Visiting hos-
pital.
 ally; and all the trustees together, shall make at least one visit during the year. An annual meeting of the trustees shall be held on the second Tuesday of November.

18. The trustees shall keep a full account of their proceedings in a book to be provided for that purpose. The
§ 2837.
Proceedings,
report.
 officers of the institution shall make reports to the trustees as they may from time to time require. The superintendent and treasurer shall severally make full reports to them at their annual meeting; and the trustees, at that meeting, shall make a full report to the general assembly, accompanying the same with the annual reports of the superintendent and treasurer.

19. The trustees may take, and hold in trust for the hospital, any lands conveyed or devised, and any money or
§ 2838.
Property in
trust.
 other personal property given or bequeathed, to be applied to any purpose connected with the institution.

20. The superintendent to be appointed under this act shall
§ 2839.
Superintend-
ent. qualifica-
tions, salary,
etc. be a physician, and a person of knowledge, skill,
and ability in his profession. He shall reside in the
hospital, and devote his entire time and attention to
the same, and the patients therein. He shall receive for his
services an annual salary, to be fixed by the trustees, and paid
quarterly out of the state treasury upon the warrant of the
auditor of state; and shall also have the boarding of himself
and family in the hospital free of charge. He shall continue
in office four years, unless sooner removed by the trustees; and
before entering upon the duties of his office, he shall take an
oath or affirmation that he will diligently, faithfully, and im-
partially discharge all the duties required of him by law.

21. The superintendent shall be the chief executive officer
§ 2840.
Powers and
duties. of the hospital, and shall have the care and control
of everything connected therewith. He shall see
that the several officers of the institution faithfully and dili-
gently discharge their respective duties. He shall employ
such attendants, nurses, servants, and other persons, as he
may think proper, and assign them their duties; and may, at
pleasure, discharge them. He shall receive from the proper
persons the patients entitled to admission into the hospital;
and when cured, discharge them. In all cases, however, he
shall be subject to the control of the trustees.

22. The superintendent shall provide an official seal for the
§ 2841.
Seal, reports. hospital, upon which shall be the words "Indiana
Hospital for the Insane." He shall make reports
to the trustees, as by section 4 [§ 2837] required; and in all
things he shall conform to the requirements of the legisla-
ture, and to the by-laws made by the trustees for the govern-
ment of the hospital.

23. When any officer of the institution is required by the
§ 2872.
Bonds. by-laws of the trustees to give bond, with security,
for the faithful performance of his duties, such
bond shall be made payable to the Indiana Hospital for the
Insane, upon such conditions as such trustees may prescribe.

24. The superintendent shall not be bound to appear and
§ 2873.
Superintend-
ent as
witness. testify in any court in this state as a witness in any
civil cause; but, in lieu thereof, his deposition may
be taken and read in evidence on trial.

25. Every person or persons wishing to visit the hospital for the insane, may hereafter visit the wards of said hospital, subject to such rules, regulations, and restrictions as the superintendent thereof may, in his discretion, prescribe or direct, on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of each week, between the hours of two o'clock, P.M. and five o'clock, P.M. on such days, and upon no other day, and at no other time than on the days and between the hours aforesaid: *provided, however*, that said hospital, and every department thereof, shall be at all times subject to the immediate inspection or examination of the board of trustees or any member thereof, and all committees of either branch of the legislature charged with any duty or inquiry in relation to said hospital. § 2574.
Visitors.

26. The trustees of the state hospital for the insane are hereby authorized and empowered to confer upon any incorporated street or horse railroad company, under such restrictions as said trustees may deem proper, the right and privilege to enter upon the grounds connected with said state hospital for the insane, and to construct, lay, and maintain on said grounds its necessary tracks for the purpose of connecting said state hospital for the insane with the Union depot in the city of Indianapolis by a continuous line of street or horse railroad: *provided, however*, that such right and privilege shall not be so exercised by said company as to in anywise interfere with the use and enjoyment of said grounds for the purpose of said state hospital for the insane, or in anywise interfere with any improvement or improvements made or to be made on said grounds, and that any license granted by the trustees under this act shall be revocable. § 2879.
Street rail-
road.

27. * * * The trustees and superintendent of the Indiana Hospital for the Insane, * * * shall, on the thirty-first day of October in each year, report, as now or may hereafter be provided by law, to the governor: *provided*, that in making out their reports said superintendents of * * * the hospital for the insane, shall set forth, in their reports, each item of expenditure on account of said institutions separately. § 5371.
Report to
governor.

28. Whenever there shall be a failure, at any regular biennial session of the general assembly, to pass an appropriation

§ 2758.
Continuing
appropriations.

bill or bills making appropriations for the objects and purposes hereinafter mentioned, it shall be lawful, for the governor, secretary, and treasurer of state, until appropriations shall be made by the legislature, to direct the auditor of state to draw his warrants on the state treasury for such sums as they may, from time to time, decide to be necessary for such purposes respectively, not however exceeding the amounts appropriated for the same objects respectively by the last preceding appropriations which shall have been made by the general assembly; and to pay such warrants as may, from time to time, be drawn and presented, a sufficient sum of money is hereby appropriated.

§ 2759.
Application of
money.

29. The objects or purposes for which such warrants may be drawn shall be the following, viz.: for the necessary current expenses of the hospital for the insane. * * *

§ 2760.
Warrants on
general fund.

30. The warrants so to be drawn shall be drawn on the general fund and not otherwise and shall not include any sum or sums for enlarging said institutions, or any or either of them, but shall be confined strictly to the necessary current expenses of said institutions respectively; and said allowances shall be made, monthly, upon the certificate of the president of the proper board of trustees of the said institutions respectively, showing in detail the necessity for the amount demanded, and that it has been approved by such board; which certificate shall be countersigned by the superintendent of the particular institution for which the expense was incurred.

§ 2761.
Limit of al-
lowance.

31. In making said monthly allowances, it shall be the duty of the officers, as aforesaid authorized to make the same, not to exceed in any one month one-twelfth of the amount appropriated for the current expenses of the same institution for the last preceding year for which an appropriation shall have been made by the general assembly.

Act of 1893, ch.
122, § 1.
Hospital for
insane, com-
missioners to
locate.

32. The governor shall, immediately upon the taking effect of this act, appoint two commissioners from each of the two leading political parties, who, together with the governor, who shall be *ex-officio* a member, are hereby constituted a board of commissioners to superintend the location, the letting, the construction, and the equipping of three hospitals for the insane;

and none of such hospitals shall be erected within fifty miles of the city of Indianapolis. Such commissioners shall hold their office for two years, and until their successors, Terms of office. are appointed, unless sooner released by order of the governor; *provided*, that one of said hospitals shall be located and erected at or near the city of Evansville.

33. It shall be the duty of such board of commissioners, after careful examination, to select, in parts of the state Ibid § 2. hereinbefore mentioned, suitable sites for the loca- Selection of sites. tion of three several hospitals for the insane, which selection, when made, shall be the places at which such hospitals shall be erected.

34. When the places for the location of such hospitals shall have been fully agreed upon by such board, or a Ibid § 3. majority thereof, the said board of commissioners Purchase of land. shall, without delay, contract for the purchase of a tract of land not exceeding one hundred and sixty acres at each location, which they shall procure to be deeded to the state of Indiana. Such board of commissioners may receive Donations. donations of money or real estate where the same is donated, to aid in the purposes contemplated by this act. In the event land should be donated, it shall be deeded to the state without words of defeasance. Such board of commissioners shall, after selecting the location for such hospitals, advertise for sealed proposals for the erection and completion of such Proposals. hospitals upon such plans and specifications as may have been agreed on, embracing offices and buildings, as may be necessary to the complete establishment of such hospitals for the comfort and safe-keeping of patients. Such advertising must be done in not exceeding five newspapers, two Advertising. of which shall be published in the county where such building is to be erected, and the others in such places, where they will most likely call out competition in the matter of bids. Such board may, if they deem it expedient, advertise and award contracts for portions of such building or buildings; but, in such case, the board shall be governed by the requirements and restrictions of this act.

35. At the time specified in such advertisement for the opening and examination of bids, the board shall meet Ibid § 4. at the places designated, and they, together with the Award of contracts.

governor, shall open and examine the bids, and award the contract or contracts to the lowest responsible bidder whose bond they deem sufficient, or they may award portions of the work to such bidders, if they shall deem it an advantage to the state to do so; and any and all bids and sealed proposals

Bond. contemplated by this act shall be accompanied by a bond, payable to the state of Indiana, signed by sufficient resident freehold surety, with a penalty in a sum not less than double the amount of the bid or proposal. Such bond shall be conditioned and must contain provisions in all respects like those required by law in cases for bidding upon county court houses; and such bond shall require the faithful performance of the work specified, if the contract be awarded under such bid or proposal. Upon the award of contract or contracts, the board and the successful bidder or bidders shall enter into a care-

Written contract. fully prepared contract, in pursuance of such award of contract, which written contract shall be filed and carefully preserved in the office of the secretary of state; *provided*,

Proviso. that neither of the commissioners of the present hospital for the insane, the superintendent, nor any of the officers or attendants, agent or employe thereof, or person connected therewith in anywise, nor any officers named herein, nor any relative of theirs or their wives, nor either of the commissioners hereafter to be appointed by any provision of this act, shall contract for any portion of the work herein provided for, or have any interest, directly or indirectly, therein.

36. When the work is so let, the board of commissioners aforesaid shall make out a written statement, under oath, setting forth the number of bids presented, the name of each bidder, the nature and amount of his bid, and the action of said board thereon, and shall state that neither of said commissioners has received any bonus or gratuity of any nature or kind, or the promise thereof, in connection with or having reference to said lettings, or said contract or contracts, and that they are not in any way interested in the proposal received or the contract made, and such statement, with the proposal or bids, shall be filed with and kept by the secretary of state.

37. A competent and skilful person shall be selected by said board, with the approval of the governor, for each of

**Ibid § 5.
Commissioners,
statement.**

Ibid § 6.

said hospitals, who shall remain on the hospital grounds and superintend the erection of said building, and see that the work is well and faithfully done, according to contract, and shall make monthly estimates of the work done, under oath, which estimates, when approved by said board, shall be filed with the auditor of state, who shall draw his warrant upon the treasurer of state for the amount of said estimates, less ten per centum thereon, which amount of ten per centum shall remain unpaid until the work is fully completed and accepted by said board, when the auditor shall draw his warrant therefor.

Superintendent, how selected.

Estimates.

Reserve.

38. Said board shall have the power to declare all contracts made under this act void when the work is not being done according to contract, or the materials furnished are not furnished in quality or quantity, or in the time stipulated for in the contract, and shall, in such event, relet the work upon the same terms, except as to notice as is provided in this act, and the substance of this section shall be set forth in each contract.

Ibid § 7.
Regulated by board.

Relet.

39. The board shall have power to remove at any time the person whose appointment is provided for in section six (6) of this act.

Ibid § 8.
Removal of sup't.

40. The board of commissioners and the person whose appointment is provided for in section six of this act, shall be allowed each five dollars per day for all the time necessarily employed by them in the performance of the duties required by this act, and all necessary traveling expenses; *provided*, that no commissioner shall receive more than two hundred dollars per annum for his services.

Ibid § 9.
Compensation of commissioners.

Proviso.

41. In order to carry out the provisions of this act, there is hereby appropriated the sum of three hundred thousand dollars for the year 1883, and three hundred thousand dollars for the year 1884, out of any money in the treasury not otherwise appropriated.

Ibid § 10.
Appropriation for 1883, 1884.

42. The necessary expenses of said hospitals, and the control and management thereof, shall be paid out of the state treasury, under such regulations and restrictions as may be adopted by the board of commissioners, and, as far as practicable, in conformity with the practice and usages of the present hospital for the insane.

Ibid § 11.
Expenses, how paid.

43. The board of commissioners shall have authority to ap-
Ibid § 12. point a superintendent to take charge of the pa-
Officers tients and hospital, to appoint a matron and such
appointed. assistants and physicians, stewards, and other officers as may
 be needed for the efficient and economical, administration of
Proviso. the affairs of the hospitals; *provided*, that no one in
 any way related by birth or marriage, nearer than the fourth
 degree of consanguinity, to any member of the board, nor
 more than one of the same family, shall hold any position of
 trust or profit, by appointment or otherwise, in connection
 with either of said hospitals, and the compensation shall be
Compensat'n. the same as that now paid for similar services in
 the hospital for the insane, at or near Indianapolis.

44. It shall be the duty of the governor, as soon as any por-
Ibid § 13. tion of said hospitals is completed and ready to re-
Governor's ceive patients, to make it known by proclamation,
proclamation. and patients may then be received, and the same rules and
 regulations shall govern the receiving, treatment, and discharge
Government. of patients, as far as practicable, and be enforced in
 these hospitals, as now govern and are in force in the present
 hospital for the insane; *provided, however*, that no patient shall
 be discharged from said hospitals until permanently cured;
and provided, also, that the governor and said board of com-
Discharge. missioners shall prescribe such reasonable rules for
 the admission of patients as they may deem proper.

45. The commissioners provided for in this act are hereby
Ibid § 14. authorized, if they deem it expedient, to purchase,
Building. repair, and equip in a suitable manner any existing
 building and grounds thereunto attached, within the limits
 imposed by this act, that will be suitable to be transformed
 into a hospital for the insane; *provided*, that not more than
Purchase. twenty-five thousand dollars shall be used in mak-
 ing such purchase; and in the event of such purchase, the
 title shall be taken as hereinbefore mentioned.

46. The capacity of such hospital mentioned in this act shall
Ibid § 15. not be less than will accommodate two hundred pa-
Capacity. tients, and not greater than will accommodate seven
 hundred patients.

47. All laws and regulations now in force, in reference to the
Ibid § 16. government of the present hospital for the insane, at
Rules.

Indianapolis, so far as the same can be made applicable to the government of these hospitals are hereby continued in force for that purpose, and extended to these hospitals.

48. All insane persons residing in the state of Indiana, and having a legal settlement in any county therein, shall be entitled to be maintained and to receive ^{§ 2842. Admission of patients.} medical treatment in the Indiana hospital for the insane, at the expense of the state, subject to the restrictions and limitations hereinafter mentioned; *provided*, that before any person alleged to be insane, and not so adjudged, shall be committed to or admitted into any hospital or asylum for the insane in the state of Indiana, the following proceedings shall be had, to wit:

49. A respectable citizen of the proper county shall, upon oath in writing, make a statement before one of the ^{§ 2843. Statement required.} justices of the peace of said county, as fully as possible answering the following interrogatories:

- (1) How long and intimately have you known _____ ?
- (2) What are your social, family, business, or other relations to him or her?
- (3) Where is his or her legal residence?
- (4) Do you believe him or her to be insane?
- (5) When and what was the first sign of insanity observed by you?
- (6) Does, or has, he or she shown any delusions? and, if so, state fully their character, extent, and duration.
- (7) Does, or has, he or she shown any extraordinary propensities of feeling or conduct? and, if so, describe fully.
- (8) What moral deficiencies has he or she shown?
- (9) What was his or her mental and moral disposition in health?
- (10) Has he or she been an inmate of any hospital or asylum for the insane? and, if so, state where, when, and for what time.
- (11) Has he or she been physically injured? and, if so, to what extent, how, and when.
- (12) Has he or she suffered any great mental shock or strain? and, if so, describe fully.
- (13) Does, or has, he or she required, to what extent, in what manner, and for what time, feeding, restraint, or seclusion?

who shall reside in the proper county, shall immediately thereupon visit and examine said person alleged to be insane, in relation to his mental condition.

51. Said justice of the peace shall then order the clerk of the circuit court of the proper county to issue subpoenas for the persons named in the statement as witnesses for the medical attendant (if there be such), for the party making the allegation of insanity, for the selected medical examiner, and for such other persons as he, said justice of the peace, may suppose to be cognizant of any facts relating to the case, if in his opinion, this be necessary; and in this class may be included witnesses on behalf of the person alleged to be insane, if such be by any person required. Said subpoenas shall command said witnesses to appear before said justice of the peace, at the court house in said county, at a specified time, to testify as to the facts set forth in said statement.

52. At the time and place appointed, unless an adjournment to another time and place has been ordered, the officers aforesaid shall proceed to examine, on oath, the witnesses in attendance in the matter of the insanity alleged; and, further,

53. They shall require the medical attendant to make, on oath, a written statement of the medical history and treatment of the given case, substantially in form as follows:

State of Indiana, }
County of , } ss.

_____, of said county, declares, on oath, that he has recently been the medical attendant of _____, of said county, alleged to be insane. That the following is a full and careful statement of the medical history and treatment observed and pursued by him in said case: _____. And that said _____, can, at present, be conveyed to a hospital for the insane without danger to life. _____, M. D.

Sworn to and subscribed before me, this day of
 , A. D. , J. P.

54. And said officers shall further require that the aforesaid medical examiner, pursuant to the aforesaid examination of the person alleged to be insane, shall make, on oath, a written statement substantially as follows:

§ 2848.
Examiner's
statement.

56. The statement of the party alleging insanity, that of the medical attendant (if there be such), the certificate ^{§ 2930.} and the judgment of the justices of the peace aforesaid, shall then be at once deposited by these said officers in the hands of the clerk of the circuit court of the proper county, who shall carefully file and preserve them. ^{Filing with clerk.}

57. On receipt of said statements and certificates, if it appear by the certificate of the justices of the peace, that the allegation of insanity has been sustained, the said clerk of the circuit court shall forthwith apply to the superintendent of the Indiana hospital for the insane for the admission of said insane person into said hospital; and shall, at the same time, transmit with said application to the superintendent, for his proper information, copies of said statements and certificates, certified to be such under the seal of the circuit court; *provided*, that, if the proper friends of the insane person prefer to place said person in a private asylum within the state, a transcript of the aforesaid statements and certificates shall be given by the clerk to said friends or guardian of said person, with a written permission, under seal of the circuit court, so to do, at their own proper expense, substantially as follows:

State of Indiana, }
County of , } 88.

§ 2851.
Clerk's
duties.

To

, Greeting:

_____, of said county, having been adjudged insane, according to law, you are hereby authorized to place _____ in _____ for treatment and care.

[Seal of the circuit court.] , Clerk.

The clerk shall file and preserve the duplicate of said permission; and here, in such case, the proceedings shall rest.

58. Upon receiving said application and transcript of statements and certificates, the superintendent of the hospital for the insane shall immediately, upon the information therein contained, determine whether the case is recent and presumably curable, or chronic and less curable, or idiotic and incurable. If the case be recent and curable, the superintendent shall at once notify the proper clerk of the acceptance of the application for admission; if the case be chronic, whether curable or incurable, an acceptance shall issue as above, provided that there be room in the hos-

§ 2852.
 Superintendent's
 duties.
 Proviso.

Indiana Hospital for the Insane.

Received, this day of , A.D. , the patient named
in above warrant, , Sup't.

Provided, that in all cases where it is desired, the clerk shall issue the warrant to a friend or relative of the patient; and he, with his necessary assistants, shall receive, if it be demanded, the same compensation allowed for like services to others. The warrant, with the receipt thereon, shall be returned to the clerk who issued it; and it shall, by him, be filed with the papers relating to the case.

62. It shall be the further duty of the county clerk to cause an ample supply of suitable clothing to be sent with every patient admitted to the Indiana hospital for ^{§ 2856.} Clothing. the insane, substantially according to a requisition, which the superintendent shall send with the acceptance. If said clothing be not otherwise furnished, the clerk shall purchase it, and payment for the same shall be made out of the county treasury, upon certificate of the clerk and order of the county auditor.

63. No person who has ever been adjudged insane according to the law within the state of Indiana, and has ^{§ 2862.} Recurrence of Insanity. been formerly discharged from any hospital or asylum for the insane within the state for any cause, shall again be admitted to any such hospital or asylum, excepting the following proceedings be had, and none other:

An affidavit shall be made substantially as follows:

State of Indiana, }
County of , } ss.

Personally appeared before me, clerk of the circuit court of said county, , a respectable practicing physician of said county, who, being sworn, declares that he knows , of county; that said has been adjudged insane; that was an inmate of , from day of , A. D. , to day of , A. D. ; that is now insane, and a proper subject for treatment in a hospital for the insane, as appears from the following symptoms personally observed, namely, ; and from the following symptoms described by others, namely, ; and that conveyance to a hospital will not endanger the life of said .

 , M. D.

Subscribed and sworn to before me, this day of ,
 A. D. 18 .
 [Seal of circuit court.]

, Clerk.

And a certificate shall be made substantially as follows:

State of Indiana, }
 County of , } ss.

I certify, that on the day of , A. D. ,
 of said county, now resident of , was adjudged insane,
 as appears of record in this office.

Witness my hand and the seal of the circuit court,
 this day of A. D. .
 [Seal of the circuit court.]

, Clerk.

Said certificate shall be filed and kept by said clerk, and a transcript of the same, certified by him under seal of the circuit court, shall be transmitted to the superintendent of the Indiana hospital for the insane or to the friends of the patient, as hereinbefore provided, together with, in the former case, an application for the admission to the hospital of said patient; and further proceedings shall be had, as pursuant to an original inquest, as hereinbefore provided.

64. Any patient may be discharged from the state hospital, by the superintendent, upon restoration to health; and incurable and harmless patients shall be discharged whenever it is necessary to make room for recent cases. All dangerous patients shall be retained in the hospital.

65. In the discharge of any patient from the state hospital, the following proceedings shall be had, to wit: the superintendent shall give notice, under the official seal, to the clerk of the circuit court of the county from which said patient was sent, that said patient is discharged; and said clerk shall forthwith file and preserve said notice with other papers relating to said case, and shall issue his warrant to the sheriff of said county, substantially as follows:

State of Indiana, }
 County of , } ss.

To the sheriff of county, Greeting:

Whereas, the proper authority has directed that , a patient in the Indiana hospital for the insane, from this county, be re-

moved : you are, therefore, hereby commanded forthwith to remove said patient, and return him to _____ township, in this county.

Witness my hand, and seal of the _____ circuit court,
this _____ day of _____, A. D. _____,
_____, Clerk.

Immediately upon receiving such warrant, the sheriff shall forthwith execute the same and return it to said clerk ; *provided, however,* that patients may be discharged to their friends, when said friends are ready, able, and willing to remove them ; or to themselves, when restored to perfect health of mind and body, and are in every way able to provide for themselves ; and in such cases, the said clerk shall not issue said warrant.

66. If a person be adjudged insane, and be not admitted to a hospital for the insane within the state, within six ^{§ 2865.} calendar months after the date of the inquest, said ^{When admission delayed.} person shall not be admitted to any hospital for the insane within the state, excepting the proceedings provided in section 16 [§ 2862] be substantially had. And it is further required, in such case, that a transcript, as in the original proceedings, be sent to the superintendent with the application for admission, or given to the friends of the patient, as hereinbefore required, unless such transcript has already been so transmitted.

67. It shall be the duty of the superintendent of the Indiana hospital for the insane to supply, through the proper ^{§ 2866.} authority, at the expense of the state, to the clerks of ^{Blank forms.} the circuit courts of the state, such proper and uniform blank forms as, according to the provisions of this act, are necessary for the making out of the various statements and certificates herein required ; and only such authorized forms shall be used.

68. If any patient escape to the county from whence he or she was committed, the sheriff shall, upon the order ^{§ 2867.} of the said superintendent, arrest and return him or ^{Escape and return of patient.} her to said hospital.

69. Any person committed as insane may apply to the proper authorities for a writ of habeas corpus, and the ques- ^{§ 2868.} tion of insanity shall be decided at the hearing. An ^{Habeas corpus.} adverse decision shall not operate as a bar to the issuance of another writ ; *provided, however,* that writs of habeas corpus shall

not issue oftener than once in every period of three months in such cases.

70. Where a patient is discharged as cured, the superintendent shall furnish him with suitable clothing, and a sum of money not exceeding twenty dollars, unless otherwise supplied.

§ 2869.
Supplies for
discharged pa-
tients.

71. If the application shall be made for the admission of more patients than the hospital can receive, a selection shall be made as follows:

§ 2870.
Selection of
patients.

1st. Recent cases (*i. e.*, when the disease is of less than one year's duration) shall have the preference over all others in the county.

2d. Chronic cases (*i. e.*, when the disease is of more than one year's duration) presenting the most favorable prospect of recovery, shall be next preferred.

3d. Those for whom applications have been the longest on file, other things being equal, shall be next preferred.

4th. Each county shall be entitled to its just proportion, according to its population; but the trustees, in the exercise of a sound discretion, may, if necessary, give preference to recent cases from one county over chronic cases from another county.

72. The taxable costs and expenses to be paid under the provisions of this act shall be as follows: to the examining officers holding the inquisition, each two dollars per day. To the medical witness accompanying the officers on their visit to the person alleged to be insane, or attending the investigation, or making out a certificate, three dollars per day. To other witnesses, the same fees as are allowed by law in other cases in the circuit court. To the clerk of the circuit court the same fees as are allowed by law for the like services in other cases, and the amount of postage upon all the communications to and from the superintendent, which said clerk is required to pay. To the sheriff, for serving process herein, and attending the inquisition, the same fees as are allowed by law for like services in other cases; and for taking a patient to the hospital, or removing one therefrom upon the warrant of the clerk, mileage going and returning at the rate of eight cents per mile and fifty cents per day for the support of each patient on his way to and from the hospital; to each assistant allowed by the clerk, and accompanying the sheriff,

§ 2871.
Costs.

mileage at the rate of eight cents per mile going and returning, the computation in both instances to be made from the county-seat to the hospitals by the nearest route. To other persons discharging the duties of sheriff herein, as by this act provided, the same fees as are herein allowed to the sheriff; and to the assistants of such person, the same fees as are herein allowed the assistants of the sheriff. The costs specified in this section shall be paid out of the county treasury of the proper county, upon the certificate of the clerk and the order of the county auditor.

73. In addition to the duties and powers heretofore conferred by law upon the trustees of the Indiana hospital for the insane, it shall also be their duty as soon as the ^{§ 2875.} ^{incurably} ^{insane.} necessary arrangements and buildings therefor can be made and provided in accordance with the provisions of this act, to take charge of and provide for the incurably insane of the state of Indiana in the same manner, as nearly as may be practicable, as the insane of the state are by existing laws required to be cared and provided for.

74. The applications and proceedings necessary to secure the admission of incurably insane persons to said ^{§ 2876.} ^{Admission of} ^{incurably} ^{insane.} hospital, when completed for them, shall be the same as those now required by law to secure the admission of insane persons to the present hospital for the insane, or as nearly as the same are applicable; and such other regulations not inconsistent therewith, as may be reasonable and necessary, may be prescribed from time to time by the trustees of the hospital for the insane.

75. Whenever the buildings provided for by this act or such part thereof as may accommodate three hundred ^{§ 2877.} ^{Department} ^{for women.} patients, together with necessary officers and attendants, shall have been opened, all of the insane women at that time inmates of the Indiana hospital for the insane shall be transferred and received as inmates of the new buildings; which buildings shall thereafter be known and designated as the Indiana hospital for the insane, department for women; and no men shall ever be admitted to such department for custody or treatment.

76. Whenever all the women inmates of the Indiana hospital for the insane shall have been removed from ^{§ 2878.} ^{Department} ^{for men.} said hospital and provided for in the department

for women, the wards thus vacated in said hospital shall be open for the reception of insane men; and the entire building shall be known and designated thereafter as the Indiana hospital for the insane, department for men; and no women shall be admitted thereto for custody or treatment.

77. When complaint, on oath, shall be made before any justice of the peace, that any person is insane, and dangerous to community if suffered to remain at large, such justice shall issue a warrant to any constable within his county, or to the sheriff thereof, commanding him to apprehend such insane person, and bring him forthwith before him; which process shall be served and returned in the same manner as state warrants are served and returned. And he shall issue a summons for, and compel, by attachment, the attendance, at the trial hereinafter mentioned, of such witnesses as may be demanded by either party, under the same regulations as govern criminal prosecutions in justices' courts.

78. Immediately after the issuing of such warrant, such justice shall issue to such constable a venire for a jury of six reputable householders or freeholders of the county; which shall be served and returned as other summonses for a jury before a justice of the peace are served and returned. And in granting changes of venue, continuances, and the conduct of such proceeding generally, such justice shall be governed by the law regulating his criminal jurisdiction, when not inconsistent herewith.

79. Whenever such insane person is arrested and brought before such justice, and the requisite number of competent persons are present, such justice shall administer to them an oath or affirmation to impartially try the issue, according to law, whether such insane person is insane, and dangerous to community if suffered to run at large; but, before administering such oath, such justice shall interrogate each of such jurors, under oath, as to whether he is prejudiced against such insane person, has any interest in his property, or is related to him, or any member of his family, by consanguinity or affinity within the fifth degree; and if he shall answer affirmatively any of such interrogatories, he shall be rejected from such jury. Such insane person, or any person in his behalf, shall have the right to challenge three of such jurors peremptorily.

§ 5142.
Complaint,
arrest, wit-
nesses.

§ 5143.
Venire, prac-
tice.

§ 5144.
Jury chal-
lenges.

80. After hearing the evidence introduced upon trial of such issue, and the personal inspection of such alleged insane person (who shall be personally present at such trial), if the jury find that such person is not insane, or that he is not dangerous to community if suffered to remain at large, he shall be discharged from custody, and the costs of such proceeding shall be taxed against the complaining party; but if the jury find that such person is insane, and dangerous to community if suffered to remain at large, such justice shall appoint some resident of the county to take charge of and confine such person, for which he shall receive a reasonable compensation from the board of commissioners of the county, at its next term thereafter, to be paid out of the county treasury. Said commissioners may appoint some other person to take charge of such insane person, at any time in their discretion; or such justice, upon complaint and proof that such insane person is illy treated by the person so appointed as aforesaid, may appoint some other person to take charge of such insane person.

§ 5145.
Finding and
proceedings
before justice.

County com-
missioners to
allow reason-
able compen-
sation.

81. Such justice, in case the finding of such jury be against such insane person, shall certify his proceedings thereupon, within ten days thereafter, to the circuit court of the county. And at the next term of such court, after the filing of the transcript of such proceedings in the clerk's office thereof, such court shall cause said issue to be again tried by a jury of twelve persons, under like instructions and conditions as to the manner of impaneling the jury, administering oaths, peremptory challenges, verdict of jury, judgment for costs, as hereinbefore provided; and if the finding of such jury shall be against such insane person, such court shall confirm the appointment of such person to take charge of such insane person, or may appoint some other suitable person for that purpose.

§ 5146.
Justice to cer-
tify to court;
trial.

82. If such insane person, so adjudged insane and dangerous as aforesaid, have a family, and his property shall not exceed in value five hundred dollars, no part of his estate shall be applied to the payment of the costs of such proceedings, or for his keeping; but when he shall have no family, all his property, or, where he has a family, and his property shall exceed in value five hundred dollars, the excess

§ 5147.
Order of
court.

thereof above five hundred dollars shall be subject to the payment of said costs and expense of keeping, if adjudged against said insane person ; and such court shall order whatever sum has been paid, out upon the order of such commissioners, for the purposes and in the manner hereinbefore mentioned, to be refunded out of said insane person's estate, under the foregoing restrictions, to the county treasury, and shall make provision out of such estate for payment of expenses to afterwards accrue, until such estate is exhausted within said restrictions or such insane person is discharged. In all cases where such insane persons have heretofore been a charge upon county treasurers, the county commissioners shall have power to collect said charges out of the property of said insane person, under the same restrictions as are in this section provided.

83. If such insane person have an estate subject to the payment of such expenses, the court shall appoint a § 5148.
Guardian. guardian for such insane person, under like restrictions, in the same manner, and with the same powers and duties, as in the case of guardians for minors.

84. Whenever the jury before such justice shall find in favor of the defendant, any person may appeal therefrom § 5149.
Appeal to the
circuit court. to the circuit court of the county, by filing a bond, within ten days thereafter, in such reasonable penalty, not less than one hundred dollars, as the justice may require, with surety by him to be approved, payable to the state, and conditioned that if, upon the trial of such appeal, he shall not establish that the defendant is insane, and dangerous to community if suffered to remain at large, such bond shall be in force, and recovery shall be had thereon for the benefit of such defendant, in the name of the state, on his or his guardian's relation.

Such justice, upon the filing of such appeal bond, shall appoint a person to take charge of such defendant as hereinbefore provided, and shall, within Justice shall
file within ten
days trans-
cript of the
proceedings
and bond. ten days thereafter, file in the clerk's office of the circuit court of the county, a transcript of such proceeding together with said bond ; and the trial of such appeal shall be had at the time and in the manner as hereinbefore provided when the finding of the jury is against the defendant.

85. Such insane person may at any time be sent to the hospital for the insane, under the laws regulating the § 5150.

same, when he shall be an admissible subject to the benefits thereof. Sending to insane hospital.

86. When the defendant desires to plead that he was of unsound mind when the offense was committed, he, § 1764. himself, or his counsel must set up such defense Plea of insanity. specially in writing; and the prosecuting attorney may reply thereto by a general denial in writing.

87. When a person tried upon an indictment or information for a public offense is acquitted on the sole ground § 1765. that he was insane at the time of the commission of Acquittal for insanity. the offense, the fact shall be found by the jury in their verdict, or by the court, if tried by it; and the defendant shall not be discharged, but shall be forthwith proceeded against upon the charge of insanity; and the verdict of the jury or finding of the court shall be *prima facie* evidence of his insanity. The proceedings shall conform to those prescribed for the admission of the insane, but no preliminary statement in writing shall be required.

IOWA.

GOVERNMENT OF ASYLUMS.

1. Establishment of asylums, titles; board of trustees, quorum; members of assembly not eligible.
2. Trustees, compensation, meetings, officers.
3. Inspection, records and reports.
4. General powers; superintendent and assistants, appointment, qualifications, salaries.
5. Corporate powers of trustees.
6. Interest in contracts prohibited.
7. Trustees not eligible to office.
8. Treasurer, bond, salary, warrants.
9. Superintendent, powers and duties.
10. Steward, powers and duties.
11. Official seal, superintendent to provide.
12. Assistant physicians, qualifications.
13. Superintendent, fees for testimony.
14. Seal to be affixed to official papers.

INSPECTION OF ASYLUMS.

15. Inspection, appointment of visiting committee, powers and duties.
16. Visiting committee's names to be posted in asylum; letters to, allowed.
17. Writing material to be supplied to patients.
18. Letters to committee to be mailed unopened.
19. Inquest on death of patient.
20. Violation of provisions for inspection, penalties.
21. Inspection to be made monthly.
22. Visiting committee, expenses of.

COMMISSIONERS OF INSANITY.

23. Appointment, term of office, provisions in case of absence.
24. Organization, meetings.
25. Clerk, duties of.
26. Commissioners to have control of admissions, judicial powers.
27. Commissioners to be supplied with blanks.

ADMISSION AND CARE OF INSANE.

28. Applications for admission, form.
29. Examination, hearing, physician's certificate.

30. Interrogatories to be answered.
31. Finding of commissioners, commitment, warrant, receipt of superintendent, execution of warrant.
32. Appeal to circuit court.
33. Appeal, when taken.
34. Appeal, trial of.
35. Discharge pending appeal.
36. Discharge or commitment.
37. Fees of commissioners, physician, sheriff, witnesses, how paid.
38. Temporary custody of insane.
39. Confinement outside of asylum.
40. Provisions for insane improperly cared for.
41. Transfer to asylum.
42. Warrant and certificate exempt officers of asylum from liability.
43. Illegal confinement, or cruelty, penalty for.
44. Authority necessary for restraint.
45. Settlement in what county, proceedings to determine.
46. County in which patient has settlement, expenses charged to.
47. Such county to refund expenses.
48. Patients without settlement, supported by state.
49. Support, charges for.
50. Support, expenses of, how collected from counties.
51. County tax, duty of treasurer.
52. County tax, not to be used for other purposes.
53. County tax, penalties for neglect to levy.
54. Notice of recited act to be given to county officers.
55. Impartial treatment of patients, special care upon agreement.
56. Expenses may be paid by relatives.
57. Preferences.
58. Classification of patients.
59. Support, patient's estate liable for.
60. Definition of insanity; idiots not admitted.
61. Escape from asylum, proceedings.

DISCHARGE.

62. Discharge on application of friends.
63. Discharge from care outside asylum.

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| <p>64. Discharge when cured, clothing when supplied; harmless incurables may be returned to friends.</p> <p>65. Harmless incurables, discharge.</p> <p>66. Discharge, regulations upon.</p> <p>67. Commission of lunacy to examine for discharge; appointment, investigation, finding, judge's order.</p> <p>68. Commission, how often repeated.</p> <p>69. Habeas corpus, investigation.</p> <p>70. Neglect of duties, penalties for.</p> <p style="text-align: center;">CRIMINAL INSANE.</p> <p>71. When not indicted, investigation to be had, warrant of commitment, execution of by sheriff; prosecution on recovery.</p> <p>72. On recovery, notice to district attorney.</p> <p>73. After conviction, investigation, commitment; execution of sentence on recovery.</p> | <p>74. Jury trial of question of sanity.</p> <p>75. Suspension of criminal proceedings.</p> <p>76. Order of trial for insanity.</p> <p>77. If defendant found sane, criminal proceedings resumed.</p> <p>78. If found insane, criminal proceedings suspended until recovery.</p> <p>79. Bail exonerated on commitment to asylum.</p> <p>80. On recovery, remanded to custody.</p> <p>81. Expenses, how borne.</p> <p>82. Sheriff's fees for commitment.</p> <p>83. Jury to find fact of insanity in verdict of acquittal.</p> <p>84. Definition of insanity.</p> <p>85. Insanity pleaded after conviction.</p> <p>86. Insanity, how determined.</p> <p>87. Reprieve, power of, vested in whom.</p> <p>88. Suspension of sentence, jury trial, report to governor.</p> |
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1. The hospital for the insane, located at Mount Pleasant, in Henry county, shall be known by the name of the Iowa Hospital for the Insane at Mount Pleasant; and the hospital for the insane, located at Independence, in Buchanan county, shall be known by the name of the Iowa Hospital for the Insane at Independence. Each of said hospitals shall be under the charge of five trustees, two of whom may be women, three of whom shall constitute a quorum for the transaction of business; and in future no member of the general assembly shall be eligible to that office. When the term of a trustee expires, his successor shall be appointed by the general assembly for four years; but no vacancy shall be filled until the number of trustees is reduced to the number provided in this section. No trustees shall receive pay for more than thirty days in any year.

McClain's Annotated Statutes, 1880, § 1383. Hospitals established; trustees; members of general assembly not eligible.

2. The trustees shall receive, as their compensation, four dollars per day for each and every day actually employed in the discharge of their duties, and five cents per mile for each mile necessarily traveled in such business, and no more, from the state treasury, out of any moneys not otherwise appropriated, by an order drawn by the secretary of the board and approved by the board. Each board of trustees shall hold an annual meeting upon the first Wednesday of October at the hospital, when they shall choose one

§ 1384. Trustees, compensation; meetings.

of their number president and another secretary, and shall also choose a treasurer for the year then ensuing and until their successors are elected and qualified. They shall also hold quarterly meetings on the first Wednesdays in January, April and July.*

3. The board of trustees or a majority thereof, shall inspect the hospital under their charge at each quarterly meeting and a committee may visit the hospital monthly. The trustees shall make a record of their proceedings in books kept for the purpose; and at the annual meetings preceding the regular sessions of the general assembly, they shall make a report to the governor of the condition and wants of the hospital, which shall be accompanied by full and accurate reports of its superintendent and treasurer, and an account of all moneys received and disbursed.

§ 1385.
Trustees to
visit, keep
record, report.

4. The trustees shall have the general control and management of the hospital under their charge; and make all by-laws necessary for the government of the same, not inconsistent with the laws and constitution of the state, and conduct the affairs of the institution in accordance with the laws and by-laws regulating the same. They shall appoint a medical superintendent, and upon nomination of the superintendent shall appoint an assistant physician or physicians, a steward, and a matron, who shall reside in the hospital and be styled resident officers of the same, and be governed and subject to all the laws and by-laws for the government of the said institution. But the same person shall not hold the office of superintendent and steward. They may, also, in their discretion, and upon the nomination of the superintendent appoint a chaplain and prescribe his duties. The board of trustees shall, from time to time, fix the salaries and wages of the officers and other employes of the hospital, and certify the same to the auditor of state; and they may remove any officer or other employe of such institution.

§ 1386.
Trustees to
control and
manage hos-
pitals.

5. The board of trustees may take, in the name of the state, and hold in trust for the hospital, any land conveyed or devised, and any money or other personal property given or bequeathed, to be applied for any purpose connected with the institution.

§ 1387.
Trustees may
take property
in trust.

* The amendment of 1878 has been incorporated in the text, though not so in McClain's Statutes.

6. No trustee, or officer of the hospital, shall be, either directly or indirectly, interested in the purchase of building material, or any article for the use of the institution.

§ 1388.
Officers cannot be interested in contracts.

7. No trustee shall be eligible to the office of steward or superintendent of the hospital during the term for which he was appointed, nor within one year after his term shall have expired.

§ 1389.
Trustees ineligible.

8. The treasurer shall execute a bond to the state of Iowa for the use of the hospital, (naming which) in double the highest amount of money likely to come into his hands, and with such securities as the executive council shall require, conditioned that he will faithfully perform the duties of his office, and pay over and account for all money that shall come into his hands, and shall be filed with the secretary of state. He shall receive such compensation as the board shall fix, not exceeding one-half of one per cent. on all moneys paid out by him. Upon authority granted by the board, he may draw from the state treasury, out of money not otherwise appropriated, upon his order, approved by the superintendent and not less than two of the trustees, and under seal of the hospital, a sufficient amount quarterly for the purpose of defraying any deficiencies that may arise in the current expenses of the hospital, but the amount of each requisition shall in no case exceed sixteen dollars per month for each public patient in the hospital, taking the number of such patients on the fifteenth day of each month as the average number on which the estimate shall be made, the number then in the hospital to be certified to the auditor of state by the superintendent and steward, which certificate shall accompany the requisition. But no part of the money so drawn for current expenses shall be used in making improvements. Upon the presentation of such order to the auditor of state, he shall draw a warrant upon the treasurer of state for the amount therein specified, not exceeding the amount for each patient hereinbefore specified.

§ 1390.
Treasurer to give bond.

Compensat'n;
draw money
from state
treasury.

9. The superintendent of the hospital shall be a physician of acknowledged skill and ability in his profession. He shall be the chief executive officer of the hospital, and shall hold his office for six years unless

§ 1391.
Superintendent of; chief executive officer.

sooner removed as above provided. He shall have the entire control of the medical, moral, and dietetic treatment of the patients, and he shall see that the several officers of the institution faithfully and diligently discharge their respective duties. He shall employ attendants, nurses, servants, and such other persons as he may deem necessary for the efficient and economical administration of the affairs of the hospital, assign them their respective places and duties, and may, at any time, discharge any of them from service.

10. The steward, under the direction of the trustees and superintendent, shall make all purchases for the hospital where and in such manner as they can be made on the best terms, keep the accounts, pay all employees, and have a personal superintendence of the farm. He shall take duplicate vouchers for all purchases made, and for all wages paid by him, which he shall submit to the trustees at each of their quarterly meetings, for their examination and approval. Such settlement of accounts shall be made by the board of trustees in open session, and shall not be entrusted to a committee. The trustees shall, after examining and approving such vouchers, file one set of them with the auditor of state. The books and papers of the steward and treasurer shall be open at all times to the inspection of any one of the trustees, state officers, or members of the general assembly.

11. The superintendent shall provide an official seal, upon which shall be inscribed the statute name of the hospital under his charge, and the name of the state.

12. The assistant physicians shall be medical men of such character and qualifications as to be able to perform the ordinary duties of the superintendent during his necessary absence, or inability to act.

13. When the superintendent of the hospital, in obedience to a subpoena, attends any court of the county in which the hospital is situated as witness for either party in the case of a person on trial for a criminal offense, and the question of the sanity of such person is raised, he shall be allowed, on such account, his necessary and actual expenses, and such daily pay as is allowed to other witnesses, and such expenses and pay shall be paid by the state. When

§ 1392.
Steward to
make pur-
chases; keep
accounts; take
and preserve
vouchers.

§ 1393.
Seal.

§ 1394.
Assistant
physicians.

§ 1429.
Fees of super-
intendent
when attend-
ing court.

compelled so to attend in civil cases, he shall be entitled to the same compensation, to be paid by the party requiring his attendance.

14. The superintendent shall affix the seal of the hospital to any notice, order of discharge, or other paper required to be given by him or issued. § 1430. Seal of, affixed.

15. There shall be a visiting committee of three, one of whom at least shall be a woman, appointed by the governor, to visit the insane asylums of the state at their discretion, and without giving notice of their intended visit; who may, upon such visit, go through the wards unaccompanied by any officer of the institution, with power to send for persons and papers, and to examine witnesses on oath, to ascertain whether any of the inmates are improperly detained in the hospital, or unjustly placed there, and whether the inmates are humanely and kindly treated, with full power to correct any abuses found to exist; and any injury inflicted upon the insane shall be treated as an offense, misdemeanor, or crime, as the like offense would be regarded when inflicted upon any other citizen outside of the insane asylums. They shall have power to discharge any attendant or employe who is found to have been guilty of misdemeanor meriting such discharge; and in all these trials for misdemeanor, offense, or crime, the testimony of patients shall be taken and considered for what it is worth, and no employe at the asylum shall be allowed to sit upon any jury before whom these cases are tried. Said committee shall make an annual report to the governor. § 1435. Visiting committee appointed by governor; power and duties.

16. The names of this visiting committee and their post-office address, shall be kept posted in every ward in the asylum, and every inmate in the asylum shall be allowed to write once a week what he or she pleases to this committee. And any member of this committee who shall neglect to heed the calls of the patient to him for protection, when proved to have been needed, shall be deemed unfit for his office, and shall be discharged by the governor. § 1436. Inmates of hospital allowed to write.

17. Every person confined in any insane asylum, shall be furnished by the superintendent or party having charge of such person, at least once in each week, with suitable materials for writing, enclosing, seal- § 1437. Superintendent to furnish writing material.

ing, and mailing letters, if they request the same, unless otherwise ordered by the visiting committee, which order shall continue in force until countermanded by said committee.

18. The superintendent or party having charge of any person under confinement, shall receive, if requested to do so by the person so confined, at least one letter in each week addressed to one of the visiting committee, without opening or reading the same, and without delay to deposit it in a post-office for transmittal by mail, with a proper postage stamp affixed thereto; and to deliver to said person any letter (without opening or reading the same) written to him or her by one of the visiting committee. But all other letters written by, or to, the person so confined may be examined by the superintendent, and, if in his opinion the delivery of such letters would be injurious to the person so confined, he may retain the same.

§ 1438.
Letters to be
deposited in
post-office.

19. In the event of the sudden and mysterious death of any person so confined, a coroner's inquest shall be held as provided for by law in other cases.

§ 1439.
Inquest held.

20. Any person neglecting to comply with, or wilfully and knowingly violating any of the provisions of the five preceding sections, shall, upon conviction thereof, be punished by imprisonment for a term not exceeding three years, or by fine not exceeding one thousand dollars, or by both fine and imprisonment in the discretion of the court, and by ineligibility for this office in the future, and, upon trial had for such offense, the testimony of any person, whether insane or otherwise, shall be taken and considered for what it is worth.

§ 1440.
Punishment
for violation
of law.

21. At least one member of said committee shall visit the asylums for the insane every month.

§ 1441.
Visits of.

22. The visiting committee shall receive, as their compensation, four dollars per day for each and every day actually employed in the discharge of their duties, and five cents per mile for each mile necessarily traveled in such business, and no more. The disbursing officer of each hospital for the insane shall pay the per diem and mileage allowed such visiting committee, and each member of such visiting committee shall certify under oath to such

§ 3828.
Visiting com-
mittee to hos-
pital for the
insane.

disbursing officer, the number of days he has served and the number of miles traveled.*

23. In each county there shall be a board of three commissioners of insanity. The clerk of the circuit court § 1395.
Who may be;
Judge of cir-
cuits court to
appoint. shall be a member of such board and clerk of the same. The other members shall be appointed by the judge of said court. One of them shall be a respectable practicing physician and the other a respectable practicing lawyer; and the appointment shall be made of persons residing as convenient as may be to the county seat. Such appointment may be made during the session of the court or in vacation; and, if made in vacation, it shall be by written order, signed by the judge and recorded by the clerk of the court. The appointment shall be for two years, and so that the term of one commissioner shall expire every year. The appointment of successors may be made at any time within three months prior to the expiration of the term of the incumbent, who shall hold his office until his successor is appointed and qualified. In the temporary absence or inability to act of two commissioners, the judge of the circuit court, if present, may act in the room of one, or the commissioner present may call to his aid a respectable practicing physician or lawyer, who, after qualifying as in other cases, may act in the same capacity. The record in such cases must show the facts.

24. They shall organize by choosing one of their number president. They shall hold their meetings for business at the office of the clerk of said court, unless, § 1396.
Organization
of. for good reasons, they shall fix on some other place, and shall also meet on notice from the clerk.

25. The clerk of said board of commissioners shall sign and issue all notices, appointments, warrants, subpoenas, § 1397.
Clerk of:
duty. or other process required to be given or issued by the commissioners, affixing thereto his seal as clerk of the circuit court. He shall file and preserve in his office all papers connected with any inquest by the commissioners, and properly belonging to his office, with all notices, reports, and other communications. He shall keep separate books in which to

* The amendment of 1878 has been incorporated in the text, though not so in McClain's Statutes.

minute the proceedings of the board, and his entries therein shall be sufficiently full to show, with the papers filed, a complete record of their findings, orders, and transactions. The notices, reports, and communications herein required to be given or made, may be sent by mail, unless otherwise expressed or implied; and the facts and date of such sending and their reception, must be noted on the proper record.

26. The said commissioners shall have cognizance of all applications for admission to the hospital, or for the safe keeping otherwise of insane persons within their respective counties, excepting in cases otherwise especially provided for. For the purpose of discharging the duties required of them, they shall have power to issue subpoenas and compel obedience thereto, to administer oaths, and do any act of a court necessary and proper in the premises.

27. The trustees of the hospital shall provide for furnishing the commissioners of the counties entitled to send patients to the hospital with such blanks for warrants, certificates, etc., as will enable them with regularity and facility to comply with the provisions of this chapter; and, also, with copies of the by-laws of the hospital when printed.

28. Applications for admission to the hospital must be made in the form of an information, verified by affidavit, alleging that the person in whose behalf the application is made, is believed by the informant to be insane, and a fit subject for custody and treatment in the hospital; that such a person is found in the county, and has a legal settlement therein, if such is known to be the fact; and, if such settlement is not in the county, where it is, if known; or where it is believed to be, if the informant is advised on the subject.

29. On the filing of such information, the commissioners may examine the informant, under oath, and if satisfied there is reasonable cause therefor, shall at once investigate the grounds thereof. For this purpose they may require that the person for whom such admission is sought be brought before them, and that the examination be had in his presence; and they may issue their warrant therefor, and provide for the suitable custody of such person until their investigation shall be concluded. Such warrant may be executed by the sheriff, or any constable of the county;

§ 1398.
Jurisdiction
and power.

§ 1431.
Blanks sent
commissioners.

§ 1399.
Applications
for admission.

§ 1440.
Investigation;
warrant; cer-
tificate of
physician.

or, if they shall be of opinion, from such preliminary inquiries as they may make—and in making which they shall take the testimony of the informant, if they deem it necessary or desirable, and of other witnesses if offered,—that such course would probably be injurious to such person, or attended with no advantage, they may dispense with such presence. In their examination they shall hear testimony for and against such application, if any is offered. Any citizen of the county, or any relative of the person alleged to be insane, may appear and resist the application, and the parties may appear by counsel, if they elect. The commissioners, whether they dispense with the presence before them of such person or not, shall appoint some regular practicing physician of the county to visit such person and make a personal examination touching the truth of the information, and the actual condition of such person, and forthwith report to them thereon. Such physician may, or may not, be of their own number; and the physician so appointed and acting shall certify, under his hand, that he has, in pursuance of his appointment, made a careful personal examination as required; and that, on such examination, he finds the person in question insane, if such is the fact, and if otherwise, not insane; and in connection with his examination the said physician shall endeavor to obtain from the relatives of the person in question, or from others who know the facts, correct answers, so far as may be, to the interrogatories hereinafter required to be propounded in such cases, which interrogatories and answers shall be attached to his certificate.

30. In each case of application for admission to the hospital, correct answers to the following interrogatories, so far as they can be obtained, shall accompany the physician's certificate; and if, on further examination after the answers are stated, any of them are found to be erroneous, the commissioners shall cause them to be corrected:

§ 1407.
Interrogatories to be answered.

- (1) What is the patient's name and age? Married or single? If any children, how many? Age of youngest child?
- (2) Where was the patient born?
- (3) Where is his (or her) place of residence?
- (4) What has been the patient's occupation?
- (5) Is this the first attack? If not, when did the others occur, and what was their duration?

(6) When were the first symptoms of this attack manifested, and in what way?

(7) Does the disease appear to be increasing, decreasing, or stationary?

(8) Is the disease variable, and are there rational intervals? If so, do they occur at regular periods?

(9) On what subjects, or in what way is derangement now manifested? State fully.

(10) Has the patient shown any disposition to injure others?

(11) Has suicide ever been attempted? If so, in what way? Is the propensity now active?

(12) Is there a disposition to filthy habits, destruction of clothing, breaking of glass, etc.?

(13) What relatives, including grandparents and cousins, have been insane?

(14) Did the patient manifest any peculiarities of temper, habits, disposition, or pursuits, before the accession of the disease?—any predominant passion, religious impressions, etc.?

(15) Was the patient ever addicted to intemperance in any form?

(16) Has the patient been subject to any bodily disease; epilepsy, suppressed eruptions, discharges of sores, or ever had any injury of the head?

(17) Has restraint or confinement been employed? If so, what kind, and how long?

(18) What is supposed to be the cause of the disease?

(19) What treatment has been pursued for the relief of the patient? Mention particulars and effects.

(20) State any other matter supposed to have a bearing on the case.

31. On the return of the physician's certificate, the commissioners shall, as soon as practicable, conclude their § 1401. Finding of commissioners. investigation, and shall find whether the person alleged to be insane, is insane; whether, if insane, a fit subject for treatment and custody in the hospital; whether the legal settlement of such person is in their county, and, if not in their Discharge. county, where it is, if ascertained. If they find such person is not insane, they shall order his immediate discharge, if in custody. If they find such person insane and a fit subject for custody and treatment in the hospital, they shall order said

person to be committed to the hospital, and unless said person so found to be insane (or some one in his or her behalf) shall appeal from the finding of said commissioners, they ^{Issue warrant.} shall forthwith issue their warrant, and a duplicate thereof, stating such finding, with the settlement of the person, if found; and, if not found, their information, if any, in regard thereto, authorizing the superintendent of the hospital to receive and keep such person as a patient therein. Said war- ^{Execution of.} rant and duplicate, with the certificate and finding of the physician, shall be delivered to the sheriff of the county, who shall execute the same by conveying such person to the hospital, and delivering him, with such duplicate and physician's certificate, and finding, to the superintendent thereof. ^{Superintendent to} The superintendent, over his official signature, shall ^{acknowledge.} acknowledge such delivery on the original warrant, which the sheriff shall return to the clerk of the commissioners, with his costs and expenses endorsed thereon. If neither the sheriff nor his deputy is at hand, or if both are otherwise engaged, the commissioners may appoint some other suitable person to execute the warrant in his stead, who shall take and subscribe an oath faithfully to discharge his duty, and shall be entitled to the same fees as the sheriff. The sheriff, or any other person so appointed, may take to his aid such assistance as he may need to execute such warrant; but no female shall thus ^{Female, how} be taken to the hospital without the attendance of ^{taken.} some other female, or some relative. The superintendent, in his acknowledgement of delivery, must state whether there was any such person in attendance, and give the name or names, if any. But if any relative or immediate ^{Relatives may} friend of the patient who is a suitable person, shall ^{execute war-} so request, he shall have the privilege of executing such war- rant in preference to the sheriff, or any other person, and without taking such oath; and for so doing he shall be entitled to his necessary expenses but no fees. The requirements of this and preceding sections are modified by the provisions of the next section.

32. Any person found to be insane by the commissioners of insanity may appeal to the circuit court by giving the clerk of said court notice in writing that he or she appeals from said ^{Act of '80, ch. 132, § 1, supplemental to § 1401. Appeal from finding of commissioners.}

finding, which notice may be signed by the party, his or her attorney, agent, or guardian.

33. Such appeal may be taken at any time within ten (10) days after the filing of the finding of said commissioners.

Ibid § 2. How taken.

34. The cause, when thus appealed, shall be placed upon the docket by the clerk of said court, and stand for trial anew in the circuit court.

Ibid § 3. Trial of the appeal.

35. If any person found to be insane by the commissioners of insanity takes an appeal from such finding, such person shall be discharged from custody pending such appeal, unless the commissioners, for any reason, find that such person cannot, with safety, be allowed to go at large, in which case they shall require that such patient shall be suitably provided for, as provided in section 1403 of the code, until such appeal can be tried and determined.

Ibid § 4. Custody pending the appeal.

36. If, upon the trial, such person is found not insane, the court shall order his or her immediate discharge, if in custody. If such person is found to be insane, and a fit subject for custody and treatment in the hospital, the court shall order that such person be committed to the hospital, and the clerk of the court shall issue a warrant to carry said finding and order into effect; which warrant, and the proceedings on and under it, shall be substantially the same as are provided for in section 1401 of chapter 2, title 11, of the code.

Ibid § 5. Final order.

37. The commissioners of insanity shall be allowed at the rate of three dollars per day each, for all the time, etc.; fees, etc., actually employed in the duties of their office. They shall also be allowed their necessary and actual expenses, not including charges for board. The clerk, in addition to what he is entitled to as commissioner, shall be allowed one-half as much more for making the required record entries in all cases of inquest and of meetings of the board for any purpose, and for the filing of any papers required to be filed. He shall also be allowed twenty-five cents for each notice or process given or issued under seal as herein required. The examining physician shall be entitled to the same compensation as a commissioner, and to mileage at the rate of five cents per mile each way. The sheriff shall be allowed for his personal services in conveying a patient to the hospital

§ 3825. Commissioners of insanity.

Sheriff.

and returning therefrom, at the rate of three dollars per day for the time necessary and actually employed, and mileage the same as is allowed him in other cases, and for other services the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses Witnesses.

in the circuit court. The compensation and expenses provided for above, shall be allowed and paid out of the county treasury in the usual manner. Whenever the commissioners issue their warrant for the admission of a person to the hospital, and funds to pay the expenses thereof are needed in advance, they shall estimate the probable expense of conveying such person to the hospital, including the necessary assistance, and not including the compensation allowed the sheriff, and on such estimate, certified by the clerk, the auditor of the county shall issue an order on the county treasurer When paid out of county treasury. for the amount as estimated in favor of the sheriff or other person entrusted with the execution of such warrant; the sheriff or other person executing such warrant, shall accompany his return with a statement of the expenses incurred, and the excess or deficiency may be deducted from or added to his compensation, as the case may be. If funds are not so advanced, such expenses shall be certified and paid in the manner above prescribed on the return of the warrant. When the commissioners order the return of a patient, compensation and expenses shall be in like manner allowed.

38. If any person found to be insane and a fit subject for custody and treatment in the hospital, cannot at § 1403. When person cannot be sent to hospital: special custodian appointed. once be admitted therein for want of room, or for any other cause, and cannot with safety be allowed to go at liberty, the commissioners shall require that such patient shall be suitably provided for otherwise until such admission can be had, or until the occasion therefor no longer exists. Such patients may be cared for either as private or as public patients. Those shall be treated as private patients, whose relatives or friends will obligate themselves to take care of and provide for them without public charge. In such case, the commissioners shall appoint some suitable person a special custodian, who shall have authority, and who shall, in all suitable ways, restrain, protect, and care for such patient, in such manner as to best secure his safety and com-

fort, and to best protect the person and property of others. In the case of public patients, the commissioners shall require that they be in like manner restrained, protected, and cared for by the board of supervisors at the expense of the county, and they may, accordingly, issue their warrant to such board, who shall forthwith comply with the same. If there is no poor-house for the reception of such patients, or if no more suitable place can be found, they may be confined in the jail of the county in charge of the sheriff.

39. On application to the commissioners in behalf of persons alleged to be insane, and whose admission to the hospital is not sought, made substantially in the manner above prescribed, and asking that provision be made for their care as insane—either public or private—within the county, and on proof of their insanity and need of care as above pointed out, the commissioners may provide for their restraint, protection and care, as in the case of other applications.

40. On information laid before the commissioners of any county that a certain insane person in the county is suffering for want of proper care, they shall forthwith inquire into the matter, and, if they find the information well founded, they shall make all needful provisions for the care of such person, as provided in other cases.

41. Insane persons who have been under care, either as public or private patients, outside of the hospital, by authority of the commissioners of any county, may, on application to that effect, be transferred to the hospital whenever they can be admitted thereto, on the warrant of such commissioners. Such admission may be had without another inquest, at any time within six months after the inquest already had, unless the commissioner shall deem further inquest advisable.

42. The warrant of the commissioners of insanity, authorizing the admission of any person to the hospital as a patient, accompanied by a physician's certificate as herein provided, shall operate to shield the superintendent and other officers of the hospital against all liability to prosecution of any kind on account of the reception and detention of such person in the hospital; *provided*, such detention shall be otherwise in accordance with the laws and by-laws regulating its management.

§ 1404.
When admission to hospital is not desired.

§ 1405.
When suffering from want of care.

§ 1406.
May be transferred to hospital.

§ 1411.
Warrant and certificate; superintendent not liable to prosecution.

43. Any person having care of an insane person, and restraining such person whether in the hospital or elsewhere either with or without authority, who shall treat such person with wanton severity, harshness, or cruelty, or shall in any way abuse such person, shall be guilty of a misdemeanor, besides being liable in an action for damages.

§ 1415.
Custodian of
insane person
guilty of mis-
demeanor.

44. No person supposed to be insane shall be restrained of his liberty by any other person, otherwise than in pursuance of authority obtained as herein required, excepting to such extent and for such brief period as may be necessary for the safety of person and property until such authority can be obtained.

§ 1416.
Insane cannot
be restrained,
except by au-
thority.

45. If the commissioners find that the person so committed to the hospital has, or probably has, a legal settlement in some other county, they shall immediately notify the auditor of such county of such finding and commitment; and the auditor so notified shall thereupon inquire and ascertain, if possible, whether the person in question has a legal settlement in that county, and shall immediately notify the superintendent of the hospital and the commissioners of the county from which such person was committed, of the result of such inquiry. If the legal settlement of a person so committed cannot for a time be ascertained, and is afterwards found, the notices so required, shall then be given.

§ 1402.
When settle-
ment is in an-
other county;
proceedings.

46. When the superintendent of the hospital has been duly notified as herein required, that a patient sent to the hospital from one county has a legal settlement in another county, he shall thereafter hold and treat such patient as from the latter county; and such holding shall apply to expenses already incurred in behalf of such patient and remaining unadjusted.

§ 1417.
When sent
from one
county whose
settlement is
in another.

47. Expenses incurred as hereinafter provided by one county on account of an insane person whose legal settlement is in another county, shall be refunded, with lawful interest thereon, by the county of such settlement, and shall be presented to the board of supervisors of the county sought to be charged, allowed, and paid the same as other claims. If the settlement is denied by the latter board, they may serve a notice similar to that pro-

§ 1418.
Expenses
may be re-
covered of the
county of the
settlement.

vided for in section thirteen hundred and fifty-nine of chapter one of this title for cases of removal; and all the provisions of that chapter in regard to the determination of a disputed claim upon an order of removal shall apply to the change of settlement of an insane person.

48. Patients in the hospital having no legal settlement in the state, or whose legal settlement cannot be ascertained, shall be supported at the expense of the state, and the trustees may authorize the superintendent to remove any patient at the expense of the state if they see proper.

§ 1419.
When no settlement,
state to pay.

49. The trustees shall, from time to time, fix the sum to be paid per month for the board and care of the patients, which shall not exceed the sum of sixteen dollars per month, and the monthly sum so fixed shall be the sum the said hospital shall be entitled to demand for keeping any patient; and the certificate of the superintendent, attested by the seal of the hospital, shall be evidence in all places of the amount due as fixed.

§ 1427.
Compensation
for keeping
fixed.

50. The superintendent shall certify to the auditor of state on the first day of January, April, July and October, the amount, not previously certified by him, due to said hospital, from the several counties having patients chargeable thereto; and said auditor shall pass the same to the credit of the hospital. The auditor shall, thereupon, notify the county auditor of each county so owing of the amount thereof, and charge the same to said county; and the board of supervisors shall levy a tax in said county for said amount, and pay the amount due the state into the state treasury; and should they within one year from the taking effect of this act fail to levy such tax sufficient to pay the amount now due the state, as shown by the books of the auditor of state, and shall fail at the time of levying other taxes thereafter to levy the tax aforesaid to an amount sufficient to pay the sum then due the state, it shall be the duty of the auditor of state to charge such delinquent county with a penalty of three per centum per month upon the amount of indebtedness then six months due, for each month until payment thereof and penalty thereon be made.

§ 1428.
Superintendent
to certify
to auditor of
state.

On failure to
levy insane
tax.

And should any county, within one year from the taking

effect of this act, fail to levy such tax sufficient to pay the amount then due the state, and shall fail, at the time of levying other county taxes thereafter to levy the tax aforesaid to an amount sufficient to pay the indebtedness subsequently incurred, it shall be the duty of the attorney-general, upon request of the executive council, to bring, in the name of the state, an action against any county so failing as aforesaid, to enforce the levying of said tax.

Action shall be brought by attorney-general.

51. It shall be the duty of the county treasurer on collection of the taxes herein required to be levied to pay into the state treasury the amount due and owing from his county at the times and in the manner required for the payment of state taxes collected.*

Act of 1878, ch. 183, § 2. Duty of county treasurer.

52. Taxes levied and collected in any county for the purpose named in this act, shall be used only to defray the expenses of the insane chargeable to such county, and the costs incident thereto, and shall not be diverted to any other purpose, nor be transferred to any other fund.

Ibid § 3. Insane tax shall not be diverted to other fund.

53. Any member of the board of supervisors, or any county treasurer who shall violate any of the provisions of this act, shall be liable to a fine of not less than one hundred nor more than five hundred dollars, to be recovered in an action brought against him in the district court of his county, in the name of the state, by the attorney-general.

Ibid § 4. Penalty for violation of these provisions.

54. The auditor of state shall notify the several county auditors, and county treasurers of the provisions of this act, and it shall be the duty of said officers to present said notice to the board of supervisors at their first meeting thereafter.

Ibid § 5. Duty of state and county auditor.

55. All patients in the hospital shall be regarded as standing upon an equal footing, and the several patients, according to their different conditions of mind and body, and their respective needs, shall be provided for and treated with equal care; but if the relative or friends of any patient shall desire it, and shall pay the expense thereof, such patient may have special care, and may be provided with a special attendant, as may be agreed upon with

§ 1420. Special care may be given when paid for, by relatives.

* This act will be found in McClain's Statutes, Vol. I, page 397.

the superintendent. In such cases, the charges for such special care and attendance shall be paid quarterly in advance.

56. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patients therein; and the superintendent shall cause the account of such patient to be credited with any sums so paid.

§ 1421.
Expenses
paid by rela-
tives.

57. If at any time it may become necessary, for want of room or other cause, to discriminate in the general reception of patients into the hospital, a selection shall be made as follows:

§ 1422.
Discrimina-
tion between
patients.

(1) Recent cases, *i. e.*, cases of less than one year's duration, shall have the preference over all others.

(2) Chronic cases, *i. e.*, where the disease is of more than one year's duration, presenting the most favorable prospects of recovery shall be next preferred.

(3) Those for whom application has been longer on file, other things being equal, shall be next preferred.

(4) Where cases are equally meritorious in all other respects, the indigent shall have the preference.

58. The superintendents of the two hospitals and the governor of the state, shall adopt such regulations as they may deem expedient in regard to what patients, or class of patients, shall be admitted to and provided for in the respective hospitals; or from what portion of the state patients, or certain classes of patients, may be sent to each or either hospital; and they may change such regulations from time to time as they may deem best; and they shall make such publication of these regulations as they may deem necessary for the information of those interested. The regulations so adopted shall be conformed to by the parties interested.

§ 1432.
Rules adop'd;
who to form.

59. The provisions herein made, for the support of the insane at public charge, shall not be construed to release the estates of such persons from liability for their support, and the auditors of the several counties, subject to direction of the board of supervisors, are authorized and empowered to collect from the property of such patients any sums paid by the county in their behalf as herein provided; and the certificate from the superintendent and the

§ 1433.
Estates of in-
sane patients
liable for
their support.

notice from the auditor of state, stating the sums charged in such cases, shall be presumptive evidence of the correctness of the sums so stated. If the board of supervisors in the case of any insane patient, who has been supported at the expense of the county, shall deem it a hardship to charge the estate of any such patient with such cost of supporting the patient, they may relieve such estate or estates from any part or all of such burden as may seem to them reasonable and just.

60. The term "insane," as used in this chapter, includes every species of insanity or mental derangement. § 1434. Meaning of term "insane"; idiots not admitted. The term "idiot" is restricted to persons foolish from birth, supposed to be naturally without mind. No idiot shall be admitted to the hospital.

61. If any patient shall escape from the hospital, the superintendent shall cause immediate search to be made for him; and, if he cannot soon be found, shall § 1423. Escape. cause notice of such escape to be forthwith given to the commissioners of the county where the patient belongs; and if such patient is found in their county, the commissioners shall cause him to be returned, and shall issue their warrant therefor as in other cases, unless the patient shall be discharged, or unless, for good reasons, they shall provide for his care otherwise, of which they shall notify the superintendent.

62. On the application of the relations, or immediate friends of any patient in the hospital who is not cured, and who cannot be safely allowed to go at liberty, the § 1408. Discharge on application of friends. commissioners of the county where such patient belongs, on making provisions for the care of such patient within the county as is in other cases, may authorize his discharge therefrom; *provided*, no patient who may be under criminal charge or conviction shall be discharged without the order of the district court or judge, and notice to the district attorney of the proper district as hereinbefore provided.

63. Whenever it shall be shown to the satisfaction of the commissioners of insanity of any county, that cause § 1409. Discharge of; cared for in county. no longer exists for the care within the county of any particular person as an insane patient, they shall order the immediate discharge of such person.

64. Any patient who is cured shall be immediately discharged by the superintendent. Upon such discharge, the superintendent shall furnish the patient, § 1424. Discharge of, when cured.

unless otherwise supplied, with suitable clothing and a sum of money, not exceeding twenty dollars, which shall be charged with the other expenses in the hospital of such patient. The relatives of any patient not susceptible of cure by remedial treatment in the hospital, and not dangerous to be at large, shall have the right to take charge of and remove such patient on consent of the board of trustees. In the interim of the meetings of the board, the consent of two of the trustees shall be sufficient.

65. The board of trustees shall order the discharge or removal from the hospital of incurable and harmless patients, whenever it is necessary to make room for recent cases; in the interim between the meetings of the board, the superintendent, in connection with two trustees, shall possess and exercise the same power.

66. When patients are discharged from the hospital by the authorities thereof without application therefor, notice of the order of discharge shall at once be sent to the commissioners of the county where they belong; and the commissioners shall forthwith cause them to be removed, and shall at once provide for their care in the county as in other cases, unless such patients are discharged as cured.

67. On a statement in writing, verified by affidavit, addressed to a judge of the district or circuit court of the county in which the hospital is situated, or of the county in which any certain person confined in the hospital has his legal settlement, alleging that such person is not insane, and is unjustly deprived of his liberty, such judge shall appoint a commission of not more than three persons, in his discretion, to inquire into the merits of the case, one of whom shall be a physician, and if two or more are appointed, another shall be a lawyer. Without first summoning the party to meet them, they shall proceed to the hospital and have a personal interview with such person, so managed as to prevent him, if possible, from suspecting its object; and they shall make any inquiries and examinations they may deem necessary and proper of the officers and records of the hospital touching the merits of the case. If they shall judge it prudent and advisable, they may disclose to the party the

§ 1425.
Incurable and
harmless re-
moved.

§ 1426.
Notice of dis-
charge sent
commissioners.

§ 1442.
When ille-
gally con-
fined, may be
discharged by
district judge.

object of their visit, and either in his presence or otherwise, make further investigation of the matter. They shall forthwith report to the judge making the appointment, the result of their examination and inquiries. Such report shall be accompanied by a statement of the case, made and signed by the superintendent. If, on such report and statement, and the hearing of the testimony, if any is offered, the judge shall find the person not insane, he shall order his discharge. If the contrary, he shall so state, and authorize his continued detention. The finding and order of the judge, with the report and other papers, shall be filed in the office of the clerk of the court over which such judge presides, who shall enter a memorandum thereof on his record, and forthwith notify the superintendent of the hospital of the finding and order of the judge, and the superintendent shall carry out the order. The commissioners appointed as provided in this section, shall be entitled to their necessary expenses and a reasonable compensation, to be allowed by the judge, and paid by the state out of any funds not otherwise appropriated; *provided*, that the applicant shall pay the same if the judge shall find that the application was made without probable grounds, and shall so order.

68. The commission so provided for, shall not be repeated oftener than once in six months in regard to the same party; nor shall such commission be appointed in the case of any patient within six months of the time of his admission.

§ 1443.
Commission;
when
appointed.

69. All persons confined as insane shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity shall be decided at the hearing, and if the judge shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason.

§ 1444.
Habeas
corpus.

70. Any officer required herein to perform any act and any person accepting an appointment under the provisions of this chapter, and wilfully refusing or neglecting to perform his duty as herein prescribed, shall be guilty of misdemeanor, besides being liable to an action for damages.

§ 1445.
Failure of
duty
punished.

71. If any person in prison charged with a crime, shall, at

§ 1412. any time before indictment is found against him, at the request of any citizen be brought before the commissioners in the manner provided by law, and if it shall be found by them that such person was insane when he committed the offense; or if any person in prison shall, after the commission of an offense, and before conviction, become insane, and if at the request of any citizen an inquest be instituted as provided for in this chapter, and if the commissioners shall find that such person became insane after the commission of the crime of which he stands charged or indicted, and is still insane, they shall issue their warrant authorizing and requiring the superintendent of either hospital to receive and keep the person as a patient therein. In such case the warrant can only be executed by the sheriff or his deputy; and no delivery of the insane prisoner to any other person than the superintendent of the hospital shall exonerate the sheriff from his liability for the custody of such prisoner, and any such lunatic may, when restored to reason, be prosecuted for any offense committed by him previous to such insanity.

72. When any lunatic shall be confined in either hospital under the preceding section, the superintendent in whose charge he may be, shall, as soon as such lunatic is restored to his reason, give notice thereof to the district attorney of the proper county, and retain such lunatic in custody for such reasonable time thereafter as may be necessary for said attorney to cause a warrant to issue and to be served, by virtue whereof the said person so restored to reason shall again be returned to the jail of the proper county to answer to the offense alleged against him.

§ 1413. Cannot be discharged until district attorney is notified.

73. If any person, after being convicted of any crime or misdemeanor, and before the execution in whole or part of the sentence of the court, becomes insane, the governor shall inquire into the facts, and he may pardon such lunatic, or commute or suspend, for the time being, the execution in such manner and for such a period as he may think proper, and may, by his warrant to the sheriff of the proper county or warden of either penitentiary, order such lunatic to be conveyed to the hospital and there kept until restored to reason. If the sentence of any

§ 1414. Becoming insane after conviction; governor suspend execution of sentence

such lunatic be suspended by the governor, the sentence of the court shall be executed upon him after such period of suspension has expired, unless otherwise directed by the governor.

74. When a defendant appears for arraignment, trial, judgment, or on any other occasion when he is required, § 4620.
Trial of insanity by jury. if a reasonable doubt arise as to his sanity, the court must order a jury to be empaneled from the trial jurors in attendance at the term, or who may be summoned by the direction of the court, as provided in this code, to inquire into the fact.

75. The arraignment, trial, judgment, or other proceedings, as the case may be, must be suspended until the § 4621.
Suspension. question of insanity is determined by the verdict of the jury.

76. The trial for the question of insanity must proceed in the following order:

(1) The counsel of the defendant must offer the § 4622.
Order of procedure. evidence in support of the allegation of insanity.

(2) The district attorney must then offer the evidence in support of the case on the part of the state.

(3) The parties may then respectively offer rebutting evidence only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

(4) When the evidence is concluded, unless the case is submitted on either side, or both sides, without argument, the district attorney must commence, and the defendant's counsel conclude the argument to the jury.

(5) If more than one counsel on each side argue the case to the jury, they must do so alternately.

(6) The court shall then, on motion of either party, charge the jury. The provisions of this code, so far as the same are applicable, and not herein changed, shall regulate the trial of the question of insanity.

77. If the jury find that the defendant is sane, the proceedings on the indictment shall be resumed. § 4623. If sane

78. If the jury find the defendant insane, the proceedings on the indictment shall be suspended until he becomes sane, and the court, if he deem his discharge § 4624.
If insane committed to Iowa hospital, when. dangerous to the public peace or safety, may order

that he be in the meantime committed by the sheriff to the Iowa insane hospital, and that upon his becoming sane, he be delivered by the superintendent of the hospital to the sheriff.

79. The commitment of the defendant, as provided in the last section, exonerates his bail, or entitles a person authorized to receive the property of the defendant, to a return of the money he may have deposited instead of bail.

80. If the defendant be received into the hospital, he must be detained there until he becomes sane. When he becomes sane, the superintendent of the hospital must give notice of that fact to the sheriff and to the district attorney of the proper district. The sheriff must thereupon, without delay, bring the defendant from the hospital and place him in the proper custody until he be brought to trial or judgment, as the case may be, or be legally discharged.

81. The expense of sending the defendant to the hospital, bringing him back, and any other expenses incurred, are to be paid in the first instance by the county from which he was sent, but the county may recover from the estate of the defendant, if he have any, or from a relative, or another county, town, township, or city, bound to provide for or maintain him elsewhere.

82. Sheriffs for delivering persons found to be insane, under the provisions of this chapter, are entitled to the same fees therefor, as are allowed for conveying convicts to the penitentiary.

83. If the defense be the insanity of the defendant, the jury must be instructed, if they acquit him on that ground, to state that fact in their verdict. The court may thereupon, if the defendant be in custody, and his discharge is deemed dangerous to the public peace and safety, order him to be committed to the Iowa insane hospital, or retained in custody until he becomes sane.

84. The words "insane person" include idiots, lunatics, distracted persons and persons of unsound mind.

85. He [the defendant] may show for cause against the judgment, that he is insane, or any sufficient ground for a new trial, or in arrest of judgment.

86. If the court is of opinion that there is reasonable ground for believing him insane, the question of his insanity shall be determined as provided in this code, and if he is found to be insane, such proceedings shall be had as are herein directed.

§ 4505.
Insanity;
how deter-
mined.

87. The only officer[s] who shall have power to reprieve or suspend the execution of a judgment of death, are the governor and the sheriff, as provided in the next section, unless in case of an appeal to the supreme court, as provided in section eighteen of this act.*

Acts of 1878,
ch. 166, § 6.
Reprieve;
who may.

88. When the sheriff is satisfied that there are reasonable grounds for believing that the defendant is insane, he may summon a jury of twelve persons on the jury list, to be drawn by the clerk, who shall be sworn by the sheriff well and truly to inquire into the insanity of the defendant and a true inquisition return, and they shall examine the defendant and hear any evidence that may be presented, and by written inquisition, signed by each of them, find as to the insanity, and unless the inquisition find the defendant insane the sheriff shall not suspend the execution. But if the inquisition find the defendant insane he shall suspend the execution and immediately transmit the inquisition to the governor.

Ibid § 7.
Insanity;
sentence sus-
pended.

* This act will be found in McClain's Statutes, Vol. II, page 972.

KANSAS.

GOVERNMENT OF ASYLUM.

1. Insane asylums to be fostered and supported by the state; trustees, how appointed.
2. Control of, by board of trustees.
3. Board of trustees; appointment, term of office.
4. Government vested in said board.
5. Trustees, powers of; to appoint superintendent, adopt regulations for admission, transfer patients.
6. Officers, enumeration of; appointment, term of office.
7. Superintendent, powers and duties; control of asylum, estimates and inventories, statistics.
8. Clothing to be furnished patients.
9. List of articles destroyed, inspection by board of survey.
10. Records of asylum.
11. Account books and records.
12. Steward, bond of.
13. Steward, powers and duties; purchase, form of bills and audit.
14. Abstract of expenditures; inventories, reports.
15. Shortage, committee of investigation; steward charged with.
16. Inspection of inventories and returns; contracts.
17. Finance committee of trustees.
18. Treasurer's abstracts; warrant of auditor.
19. Salaries, monthly payment of.

ADMISSION AND DISCHARGE.

20. Investigation of insanity, by probate court; jury trial.
21. Special term of court, if information filed in vacation.
22. Appearance of defendant in discretion of judge.
23. Application to probate court.

24. Trial, verdict of jury, form of; commitment, guardian appointed.
25. Costs, by whom paid, on commitment.
26. Costs, by whom paid, on discharge.
27. New trial in discretion of court.
28. Guardian, bond and security of.
29. Additional bond may be required.
30. Bond deposited with court.
31. Notice of guardianship.
32. Support; provided by guardian.
33. Support, estate liable for.
34. Temporary confinement, examination, commitment.
35. Powers of court in such cases.
36. Costs, by whom paid.
37. Reimbursement to county.
38. Custodian to be guardian ad litem.
39. Application by probate judge.
40. Warrant of commitment.
41. Support; expenses of, by whom borne, certificate of indigence.
42. Private patients, regulations for admission.
43. Support of, obligation for.
44. Interrogatories of superintendent.
45. Removal and discharge, by whom; idiots and others not admitted.
46. Discharge, regulations for.
47. Discharge, expenses of.
48. Penalties for neglect of duties.
49. Expenses of patients supported out of asylum; statement of.
50. Reimbursement of such expenses.
51. Appropriations for, by state.
52. Warrants for, how drawn.

CRIMINAL INSANE.

53. Insane convicts, inquisition of insanity, commitment; on recovery remanded to custody.
54. Criminals sentenced to death, stay of execution, trial of insanity.

1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the state, subject to such regula-

Comp. Laws
of 1879.
C. F. W.
Dassler, § 186,
const., art. 7,
§ 1.

tions as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken in yeas and nays, and entered upon the journal.

Benevolent
institutions.

2. The asylum for the blind, the asylum for the deaf and dumb, and the asylum for the insane, shall be directed and controlled by a board of trustees consisting of five persons, who shall be appointed by the governor, by and with the advice of the senate.

§ 5451.
Board of
trustees.

3. The governor shall appoint, in the year eighteen hundred and seventy-six, five persons as trustees of the asylums for the blind, deaf and dumb, and insane; of whom two shall hold their offices for one year, ending April one, eighteen hundred and seventy-seven; two for two years, ending April one, eighteen hundred and seventy-eight; and one for three years, ending April one, eighteen hundred and seventy-nine; and their successors shall each and all hold their positions for the term of three years, the terms ending April one of the succeeding years.

§ 5452.
Appointment.

4. The government of the insane asylums of the state shall be vested in the board of trustees of the institutions for the education of the blind, the deaf and dumb, and the asylums for the insane.

§ 435.
Government
of vested in
board of
trustees.

5. The board of trustees shall designate the superintendent of one of the insane asylums, to whom all applications for the admission of insane persons shall be made, and who, under such rules as may be made by the board of trustees, shall designate to which asylum each applicant shall be admitted; and the board of trustees shall adopt such regulations as will enable the superintendent so designated to determine to which asylum each applicant shall be admitted; *provided*, the board of trustees may order the transfer of patients from one asylum to another, when deemed advisable.

§ 436,
as amended
1881, ch. 36,
§ 1.
Applications
for admission
of insane per-
sons made to
designated
superintend't.

6. Each insane asylum shall have a superintendent, an assistant superintendent, steward and matron, who shall be chosen by the board of trustees, and shall hold their office for the term of three years, subject

§ 437.
Officers, by
whom ap-
pointed, and
terms.

to removal only for sufficient cause, which shall be determined by a full investigation by the board of trustees.

7. The superintendent shall be the executive and medical officer of the asylum, and shall have control of all the affairs thereof, subject to the direction of the board of trustees. He shall semi-annually, and oftener if required, submit to the trustees an estimate of the supplies needed by the asylum [for] the six months ensuing, and therewith shall deliver an inventory of all supplies, stock, furniture, and other property of the asylum. He shall present to the finance committee of the said board of trustees, monthly, an estimate of all articles required for the ensuing month which have not been included in the contract for the purchase of supplies, and when approved shall transmit the same to the steward. No other purchases shall be ordered except upon an unforeseen emergency. He shall make to the board of trustees at least semi-annual reports showing the movement of the population and the operations of the asylum during the period embraced therein; and at the close of the biennial period, he shall report in detail the condition of the asylum, and all of its concerns, with a list of the salaried officers and employes, and their salaries, and shall accompany said reports with all returns of property and reports of the steward and other officers. The superintendent shall make such recommendations in his report as he may deem requisite to the welfare of the institution.

8. Whenever necessary, the superintendent shall cause clothing to be issued to patients in the asylum. All issues to indigent persons shall be charged to the state; all other issues shall be charged to the parent or guardian of the person to whom the issue shall be made, and the account therefor shall be forwarded with the account for board.

9. A list of articles destroyed in each ward or department during the week shall be made by the supervisor of the wards to the superintendent, who shall cause it to be entered in a book kept for that purpose. The injured or damaged articles shall be kept until inspected. The trustees, at least semi-annually, shall designate a board of survey, who shall proceed to inspect said articles, and if found to

§ 438.
Superintendent to be medical and executive officer.

Reports, when made.

§ 439.
Clothing issued to patients, when.

§ 440.
List of articles destroyed to be kept.

be unfit for further use, condemn them, when they will be dropped from the property account. The board of survey shall state in their report by whom the damage was done, and whether it was from carelessness or neglect on the part of the attendants or persons responsible therefor.

10. A full abstract of all correspondence relating to the admission of patients, their treatment, and all other matters of an official nature, and the replies thereto, shall be kept by the superintendent. He shall also cause to be kept a complete record of each case and the treatment thereof, a prescription book, with the date when it was compounded and administered, and such other records as may be necessary to give the board and the public a full knowledge of all the transactions and business of the medical department.

§ 441.
Abstract of all
correspond-
ence to be
kept.

11. A set of account books shall be kept under the direction of the superintendent, that shall be adapted to the wants of the asylum, and shall exhibit in detail every financial transaction thereof. The clerks shall also keep the following books, viz.: a requisition book, in which shall be entered a true copy of every requisition which has been approved by the superintendent; a daily abstract of all supplies on hand and of the issues; of the issues of clothing, witnessed by an attendant having charge of the patient or patients to whom the issue is made; a record of contracts with the employes of the asylum, which shall show the beginning and terms of the contract, and be signed by the party employed, and opposite the name by whom recommended, the occupation, when left, and the cause; an absence record, in which shall be entered a statement of the absences of the officers and employes, and by what authority; also, a time book, in which shall be kept the time of every officer and employe; a record, in which shall be entered by wards and departments a list of all property injured and damaged, and by whom; an account between the laundry and the respective wards, and such other books of account as may be necessary.

§ 442.
Certain ac-
count books to
be kept; con-
tain what.

12. Before entering upon his duties, the steward shall execute a bond to the state of Kansas, with three or more sureties, to be approved by the governor, in double the amount of the property and money which shall be likely to come into his possession during any month, which

§ 443.
Steward ex-
ecute bond.

14. He shall issue all the stores upon requisition approved by the superintendent, which shall be his voucher therefor. He shall present to the finance committee of the board of trustees an abstract of all expenditures, together with the accounts and pay-rolls in duplicate for the preceding month, and when "ordered paid" by said committee shall, without delay, transmit the same, together with the requisition upon the auditor of state for a warrant therefor, made by said committee to the treasurer of the board. He shall examine and register all goods delivered, according to their amount and quality, and, if found to correspond with the samples, to be in good order and to be correct in charge, certify the bills. He shall at least semi-annually take an account of the supplies and stock in his possession and under his control, and transmit the same to the superintendent, and at the close of the biennial period he shall make a consolidated report of all purchases and all other transactions of his department to the superintendent.

§ 445.
Abstract of all
expenditures
to be made to
finance com-
mittee.

15. Whenever it shall appear that there is any shortage in the stores of the asylum, the board of trustees shall appoint a committee from their own number, who shall investigate the cause thereof; and if it shall appear to have occurred from evaporation, natural shrinkage, accidental leakage, or unavoidable loss, the steward shall be credited therewith; otherwise he shall be charged with the amount thereof and be required to pay the same into the state treasury within ninety days after the determination of the loss. If default shall be made in the said payment, he shall forfeit his office, and the attorney-general shall institute a suit upon his official bond to recover the same.

§ 446.
Shortage dis-
covered—du-
ties of trustees.

16. The board of trustees shall verify by actual inspection all inventories and property returns made to them. Upon the approval of the estimates for supplies, the trustees shall advertise for proposals to supply the articles required by the asylums, and shall let contracts therefor to the lowest responsible bidders, subject to such regulations as they may deem proper. All other purchases shall be made in the open market.

§ 447.
Advertise for
proposals for
furnishing
supplies.

17. A finance committee shall be appointed annually by the board of trustees, from their own number, who shall

§ 448.

Requisition
made upon
auditor of
state, when.

examine monthly the accounts and abstracts thereof, including the pay-rolls presented to them by the steward, and indorse them when found correct and just, as provided in this act, make a requisition for the amount thereof upon the auditor of state, and deliver the same to the steward.

§ 449.
Proceedings
between trea-
surer of board
and auditor of
state.

18. The treasurer of the board of trustees shall deliver the accounts, the pay-rolls and all [an] abstract of said claims to the auditor of state, which shall be sufficient evidence to the auditor of such persons' claim[s] respectively. The auditor shall indorse his audit thereon, retain the abstract, and return the accounts with his warrant for the amount thereof to the treasurer. Upon the receipt of the warrant, the treasurer shall have the accounts receipted and pay them, when he shall retain the duplicate and file the original with the auditor of state as paid vouchers with the requisition for the succeeding month. No further warrants shall be drawn by the auditor in favor of the treasurer until vouchers as herein provided shall have been filed in his office.

§ 450.
Monthly pay-
ments made.

19. The officers and employes shall be paid monthly, upon a pay-roll which shall show when employed, the monthly pay, time paid for, the amount of pay and deductions therefrom for property lost or destroyed through carelessness.

§ 3080.
Facts shall be
inquired into
by jury.

20. If information, in writing, is given to the probate court that any one in its county is an idiot, lunatic or person of unsound mind, or an habitual drunkard, and incapable of managing his affairs, and praying that an inquiry thereinto be had, the court, if satisfied that there is good cause for the exercise of its jurisdiction, shall cause the facts to be inquired into by a jury.

§ 3061.
Information.

21. Such information may also be given, in the vacation of said court, to the judge thereof, in which event he shall call a special term of the probate court for the purpose of holding an inquiry whether the person mentioned in such information be of unsound mind or an habitual drunkard, or not.

§ 3062.
Brought
before court.

22. In proceedings under this act, the probate court may, in its discretion, cause the person alleged to be of unsound mind or an habitual drunkard to be brought before the court.

23. Whenever any judge of the probate court, justice of the peace, sheriff, coroner or constable shall discover § 3063.
Duty of
Judge, etc. any person, resident of his county, to be of unsound mind or an habitual drunkard (as in the first section of this act mentioned*), it shall be his duty to make application to the probate court for the exercise of its jurisdiction, and thereupon the like proceedings shall be had as in the case of information by unofficial persons.

24. At the time fixed for the trial, a jury of six persons, one of whom shall be a physician in regular practice § 3064.
Trial by jury;
verdict;
guardians,
etc. and good standing, shall be impaneled to try the case, who shall be entitled to one dollar for each day. The person alleged to be insane shall have the right to be present at the trial, to be assisted by counsel, and to challenge jurors as in civil cases. The court may for good cause continue the cause from time to time. After hearing the evidence, the jury shall render their verdict in writing, signed by them, which shall embody the substantial facts shown by the evidence, which verdict, in the case of a person found to be a lunatic, shall be substantially in the following form:

State of Kansas, }
County, } ss.

We, the undersigned, jurors in the case of (naming the person charged to be insane), having heard the evidence in the case, are satisfied that said is insane and is a fit person to be sent to the state insane asylum; that he is resident of the state of Kansas and county of ; that his age is years; that his disease is of duration, dating from first symptoms; that the cause is supposed to be (or unknown); that the disease is (or is not) with him hereditary; that he is (or is not) subject to epilepsy; that he does (or does not) manifest homicidal or suicidal tendencies.

Which verdict shall be signed by all the members of the jury; and to which verdict shall be attached a brief statement of the medical treatment in the case, as near as the same can be ascertained, which statement, together with any other information or circumstance known to him, and which may tend to throw light on the case, shall be signed by the physician or physicians upon the jury.

* See pl. 20.

Upon the return of the verdict, the same shall be recorded at large by the probate judge, and if it appear that the person is insane, and is a fit person to be sent to the insane asylum, the court shall enter an order that the insane person be committed to the state insane asylum; and it shall thereupon be the duty of the probate judge to make application to the superintendent of the state insane asylum for the admission of such insane person, and shall transmit with such application a copy of the verdict of the jury and statement by the physician or physicians as hereinbefore provided, under his signature and seal of office. And if it be found by the jury that the subject of the inquiry is of unsound mind, or an habitual drunkard, and incapable of managing his or her affairs, the court shall appoint a guardian of the person and estate of such person.

25. When any person shall be found to be insane, or an habitual drunkard, according to the preceding provisions, the costs of the proceedings shall be paid out of his estate, or, if that be insufficient, by the county.

§ 3065.
Costs, how
paid.

26. If the person alleged to be insane or an habitual drunkard shall be discharged, the costs shall be paid by the person at whose instance the proceeding is had.

§ 3066.
Discharge;
costs.

27. The court may, if just cause appears, at any time during the term at which an inquisition is had, set the cause aside and cause a new jury to be impaneled to inquire into the fact; but when two juries concur in any case, the verdict shall not be set aside.

§ 3067.
Inquisition
set aside,
when.

28. Every guardian of a person of unsound mind or an habitual drunkard, before entering upon the duties assigned him, shall enter into a bond to the state of Kansas, in such sum and with such security as the probate court shall approve, conditioned that he will take due and proper care of such insane person or habitual drunkard, and manage and administer his estate and effects to the best advantage according to law, and will do and perform all such other acts, matters and things touching his guardianship, as may be prescribed by law or enjoined on him by the order or judgment of any court of competent jurisdiction.

§ 3068.
Guardian to
enter into
bond.

29. The probate court may, at any time, require of any such guardian to give a new bond, or additional security, as the circumstances of the case shall require; and

§ 3069.
New bond.

if any order for that purpose be not complied with within a reasonable time, to be therein mentioned, the appointment of the guardian may be revoked, and another appointed who will give the bond and security required.

30. Every bond given by such guardian shall be deposited with the court making the appointment; and a copy thereof, duly certified by the judge thereof, shall be evidence in all respects as the original.

§ 3070.
Bond, where
deposited.

31. It shall be the duty of every such guardian, within thirty days after his appointment, to cause a notice thereof to be published, at such time and in such manner as the probate court shall order.

§ 3071.
Notice of
appointment.

32. Every such guardian shall take charge of the person committed to his charge, and provide for his support and maintenance as hereinafter directed.

§ 3072.
Take charge
of person.

33. Every probate court by whom any insane person or habitual drunkard is committed to guardianship, may make an order for the restraint, support and safe-keeping of such person, for the management of his estate, for the support and maintenance of his family and education of his children, out of the proceeds of such estate; to set apart and reserve for the payment of debts, and to let, sell or mortgage any part of such estate, real or personal, when necessary for the purposes above specified.

§ 3073.
What orders
court may
make.

34. If any person, by lunacy or otherwise, shall be furiously mad, or so far disordered in his mind as to endanger his own person, or the person or property of others, it shall be the duty of his or her guardian, or other person under whose care he or she may be, and who is bound to provide for his or her support, to confine him or her in some suitable place until proceedings can be commenced in the probate court, which shall make such order for the restraint, support and safe keeping of such person as the circumstances of the case shall require.

§ 3102.
Guardian to
confine insane
person, when.

35. If any such person, as in the last preceding section is specified, shall not be confined by the person having charge of him, or there be no person having such charge, any judge of a court of record, or any two justices of the peace, may cause such insane person to be apprehended, and may employ any person to confine him or

§ 3103.
Judge or jus-
tices may
order confine-
ment, when.

her in some suitable place until the probate court shall make further order therein, as in the preceding section specified.

36. The expenses attending such confinement shall be paid by the guardian, out of his estate, or by the person bound to provide for and support such insane person, or the same shall be paid out of the county treasury.

37. In all cases of appropriations out of the county treasury for the support and maintenance or confinement of any insane person, the amount thereof may be recovered by the county from any person who, by law, is bound to provide for the support and maintenance of such person, if there be any of sufficient ability to pay the same.

38. The custodian or person in whose care an insane person may be, shall be his guardian in all that pertains to a legal defense of his person from injury or abuse where no guardian of such insane person lives in the same county. Where there is a guardian of such insane person living in the same county, the person in whose care such insane person may be, shall notify such guardian (if to him known) of such injury or abuse. But if the guardian is to him unknown, he shall notify the probate judge of said county.

39. Any probate judge in this state desiring to commit an insane person to the state insane asylum, shall forward a statement in form as follows to the superintendent thereof:

Statement.

In the matter of the insanity of A. B., of county, state of Kansas.

To the superintendent of the state insane asylum:

After due examination had before me, C. D., probate judge of county, on the day of , 18 , one A. B. was adjudged to be insane. This is, therefore, to inquire whether, and if so, when you can admit him into the insane asylum? The following is a history of the case, as far as I am informed: (here recite the principal items of information in regard to the case).

[Seal]

C. D., Probate Judge.

40. The superintendent shall inform such judge whether the person adjudged to be insane can be received or not, and if the judge receive information that such person will be received, he shall issue his precept in form as follows, to the guardian of such person adjudged to be insane:

Precept.

In the matter of the insanity of A. B.
To C. D., guardian of A. B.:

You are hereby commanded, without unnecessary delay, to take A. B., adjudged to be insane, and deliver him into the custody of the superintendent of the state insane asylum, together with the accompanying warrant to the steward directed, and return within thirty days this precept, with the receipt of the superintendent indorsed thereon.

[Seal]

C. D., Probate Judge.

Form of Warrant.

In the matter of the insanity of A. B., of postoffice,
county, state of Kansas.

To the steward of the state insane asylum:

You are hereby commanded to receive and maintain, at the expense of _____ (name of county, or guardian or person to bear the expense) one A. B., adjudged to be insane, being the person herewith delivered to the superintendent by E. F., guardian (or sheriff).

[Seal]

C. D., Probate Judge.

41. If, in determining the matter of maintenance, the court shall find that a person adjudged to be insane has sufficient means for his maintenance and that of his family, if he have one, without impoverishment, he shall order his guardian or other legal representative to pay for his maintenance out of the proceeds of the estate of such insane person. But if the court shall find that he has no estate, or not sufficient for his maintenance and that of his family without impoverishment, or if he be a minor, and his parents are not able to maintain him away from home, the

§ 3109. Maintenance of insane person.

court shall deliver to the clerk of the board of county commissioners of the proper county, a certificate in form as follows:

Certificate.

In the matter of the insanity of A. B., of county.
To the board of county commissioners of county:

A. B., a citizen of this county, was, after due examination had in this court on the day of 18 , adjudged to be insane, and not having sufficient means known to this court for his maintenance, was, by order of this court, placed in custody of (name of person or officer), for maintenance at the expense of the county.

[Seal]

C. D., Probate Judge.

When an itemized and verified account shall be presented to the board of county commissioners, an order shall be issued for its payment out of the county treasury if the amount is found reasonable.

42. Persons desiring to place patients in the asylum at private expense, shall apply to the superintendent, stating the nature of the case, and if such case comes within the provisions of the by-laws of the asylum, and there is room, the superintendent shall inform the applicant that the case will be received. But in every such case the superintendent shall be presented with a certificate in form as follows, signed by at least one practicing physician of the same county:

§ 3110.
Private patients.

Physicians' Certificate.

 county, state of Kansas, (month) (date), 18

We have seen and examined A. B., and believe him to be insane.

G. H., M. D.

I. J., M. D.

There shall also be presented to the superintendent at the time of admission, a certificate of the probate judge of the proper county, in form as follows:

Certificate.

In the matter of the insanity of A. B.

I., C. D., probate judge of county, state of Kansas, have

been informed of the insanity of A. B., and have appointed K. L., of _____ name of the postoffice, _____ county, state of Kansas, guardian of that said A. B., or M. N., of _____ (name of postoffice), _____ (county), state of Kansas, as the guardian of said A. B., (as the case may be).

[Seal]

C. D., Probate Judge.

43. There shall be filed with the steward on or before the time of admission, an obligation in form as follows, signed by at least two persons, the genuineness of whose signatures and their pecuniary responsibility shall be certified to in form as follows, by the probate judge, a notary public, or a justice of the peace, of the proper county:

Obligation.

In consideration of A. B. being admitted a private patient into the state insane asylum, we, the undersigned, jointly and severally promise to pay to the treasurer of the said asylum, on the first day of December, March, June and September, with ten per cent. interest per annum, after said days respectively, the rate of board determined by the board of trustees of said asylum, to provide or pay for all requisite clothing or other things necessary or proper for the health and comfort of said patient, to remove said patient when discharged, to reimburse funeral expenses in case of death, and also to indemnify said asylum for all expenses of suit which it may incur in collecting said bill for board, supplies and funeral charges, the same to be included in the damages to be recovered in such suit.

Witness our hands this day of 18 .
O. P.
Q. R.

county, state of Kansas.

I certify that the signatures of O. P. and Q. R. to the above obligation are genuine, and that they are responsible for the amount of the above obligation.

S. T.,

Probate Judge, or Notary Public.

44. The superintendent shall forward to the person or officer asking the admission of patients the necessary blanks for such case, together with the questions designed to elicit a history of the case, the answer to which

§ 3112
Duty of superintendent, blanks.

shall be written out by the applicant as far as information can be obtained, and the blanks so filled shall then be forwarded to the superintendent.

45. The person or court placing a patient in the asylum shall have the power to remove such patient at any time, and the superintendent shall have power, under the direction of the trustees, to discharge any patient at any time in accordance with the by-laws of the asylum. No idiot or person laboring under any infection or contagious disease shall be admitted into the asylum.

46. When a patient is ordered discharged, the steward shall immediately notify the probate judge of the proper county of such discharge, giving the name of the patient and date of discharge, and whether the patient is restored to his right mind or not. The judge shall, when he receives the notice, make a corresponding entry on the records of his court; and in case the patient is discharged not restored, he shall immediately issue his precept to the guardian of such person to remove him from the asylum to the proper county, at the expense of the county or person charged with his maintenance. If the patient is not removed within thirty days after discharge, the steward shall remove him at the expense of the county or person charged with his maintenance. In case of the discharge of a county patient, the steward shall also notify the county clerk of such discharge.

47. When a person is discharged restored, the steward may, under the direction of the superintendent, send him home at the expense of the county or person charged with his maintenance.

48. In case of the non-performance of any of the duties enjoined in this act, such neglect may be punished by fine in any sum not less than ten nor more than one hundred dollars, to be recovered before any justice of the peace of the proper county, by any person suing therefor, for the use of the county.

49. It shall be the duty of the county clerk, on or before the thirtieth day of November, eighteen hundred and seventy-six, and annually thereafter, to make out a certified account, fully itemized, and file the same with the auditor of state, of all expenses incurred by the

§ 3113.
Removal of
patients.

§ 3114.
Discharge of
patients, pro-
ceedings.

§ 3115.
The same.

§ 3116.
Neglect of
duty; pun-
ishment.

§ 3117.
Statement of
insane sup-
ported by
county.

county for the current year in support of the destitute insane of such county for whose admission to the insane asylum application has been duly made to and declined by the superintendent of said asylum for want of room.

50. It shall be the duty of the auditor of state to present at each meeting of the legislature all such accounts for allowance; but no county shall be allowed more ^{§ 3118.} than fifty cents per day for each insane person so supported as ^{Duty of auditor.} aforesaid.

51. The sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of ^{§ 3119.} any moneys in the treasury not otherwise appro- ^{Amount appropriated.} priated, for the purpose of paying to the several counties of the state the expenses incurred by such counties for the maintenance of destitute insane persons, as provided for by chapter eighty-three of the laws of eighteen hundred and seventy-six, from and after March tenth, eighteen hundred and seventy-six, to November thirtieth, eighteen hundred and seventy-eight.

52. The auditor of state is hereby authorized to draw his warrant on the treasurer of state for so much of this ^{§ 3120.} appropriation as may be necessary for the purposes ^{How drawn.} specified in section one of this act;* *provided*, that no claim shall be audited or allowed unless an itemized statement of all expenses incurred by such counties in support of such insane person shall be presented to the auditor of state, properly verified by affidavit in writing, stating that said claim is just and correct, and that application has been made to the superintendent of some one or more of the insane asylums of this state for the admission of such insane person therein, and that such admission has been refused; and said affidavit and statement shall be accompanied by the certificate of the superintendent of such insane asylum, stating the time said application was made and refused, and the reasons for such refusal.

53. In case any person confined in the penitentiary shall become insane, it shall be the duty of the warden to ^{§ 3416.} at once notify the physician, in writing, of the fact, ^{Insane convicts.} who shall, if he deem the statement to be true, summon to his assistance the two nearest resident physicians, and proceed to

* See pl. 20.

make inquisition of the facts charged. If they shall deem the person insane they shall so certify in writing to the warden, and the warden shall at once cause such insane person to be delivered to the superintendent of the asylum for the insane, and take his receipt for such insane convict, then to be kept at such asylum until he shall recover from such insanity or be discharged by reason of expiration of term of sentence, pardon or reprieve. If said insane convict recover before the term for which he was sentenced expire, the superintendent of the asylum for the insane shall at once notify the warden of such recovery, and the warden shall immediately take such convict into his charge.

54. In case of an appeal or writ of error taken by a person convicted and sentenced to death as aforesaid, the sentence of the law shall not be carried into effect until after the hearing and determination of such appeal or writ of error. In case of a person convicted and sentenced to death becoming insane, such person shall not be executed until the governor shall be satisfied, upon the oaths of twelve good and true men, to be named and summoned by the warden, upon proper inquiry and investigation being made under direction of the warden, that such insanity no longer exists. * * *

KENTUCKY.

GOVERNMENT OF ASYLUMS.

1. Establishment of asylums, titles, corporate powers, government vested in board of commissioners.
2. Board of commissioners, term of office, classification of, oath.
3. Appointment, from what county.
4. Organization, quorum, powers and duties; general control, by-laws and regulations, meetings, inspection of asylums; secretary and treasurer, not to be members of board; officers not to be interested in contracts, records.
5. Superintendent, qualifications, appointment, term of office; salaries of officers.
6. Superintendent, powers and duties of, control of asylum, register of patients, appointment of inferior officers, receiver, accounts of.
7. Assistant physician may fill office of superintendent.
8. Treasurer, bond and security of.
9. His powers and duties, report, illegal use of moneys, penalties.
10. Audit of accounts; warrants.
11. Steward, duties of; purchases, itemized accounts, control of grounds, inventory, illegal sale of supplies, bond, salary.
12. Special auditor appointed.
13. Exemption of officers from militia, road, and jury service; their evidence given by deposition.
14. Actions in behalf of asylums.
15. Statistics of asylums.
16. Expenses, statement of, warrants, how drawn, illegal use of public properties, penalties for.
17. Audit of claims.
18. Commissioners to report the number of idiots and incurables confined.
19. Temporary physicians.
20. Asylums to be insured.
21. Exemption from taxation.

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22. Preference to residents over non-residents.
23. Private patients admitted only

after inquest. Regulations for discharge.

24. Private patients, charges for.
25. Support to be secured in advance, unexpended moneys refunded.
26. Fact of indigence of married person certified on inquest.
27. Indigent patient becoming entitled to property, charges for; liability of relations.
28. Expenses of commitment.
29. Appointment of counties, classification of insane, transfer of patients.
30. Idiot not admitted unless dangerous.
31. Discharge of idiots and incurables, commission for investigation, findings, to whom re-committed, duty of maintenance, place of confinement.
32. Discharge, expenses of.
33. Support of returned patients.
34. Returned patients, custody of in Louisville.
35. Jurisdiction of courts over insane.
36. Property of patients may be sold for support.
37. Guardians of insane, their powers and duties.
38. Suits against, how brought.
39. Guardians, when appointed.
40. Indigent insane, regulations for support.
41. Limit of expenses for.
42. Inquest of insanity by jury.
43. District attorney, duties at inquest.
44. Oath administered to jury.
45. Judgment upon verdict; verdict set aside at discretion of judge.
46. Appearance of defendant, in discretion of judge.
47. Indigent insane, expenses of in asylum, borne by state.
48. Investigation of mental ability.
49. Care of persons and estate, appointment of guardian.
50. Disposition of papers of inquest; inquiry into recovery.
51. History of the case to be submitted.
52. Liability of estate for support.
53. Certification of date of attack.
54. Payments by relatives refunded on production of certificate.

- 55. Expenses of commitment, fees for.
- 56. Previous regulations to be complied with, duty of officers.
- 57. Duty of superintendent on notice of commitment.
- 58. Penalty for attempting to introduce a pauper as a charge upon another county.
- 59. Epileptics not admitted to asylum.
- 60. Estate of patient sold for support.

CRIMINAL INSANE.

- 61. Suspension of criminal proceedings; jury trial of insanity, commitment, on recovery remanded.
- 62. Fact of insanity found in verdict.
- 63. Arrest of judgment; jury trial of insanity, commitment; on recovery, judgment pronounced.
- 64. Suspension of execution; jury of insanity, notice to governor.

1. The three lunatic asylums of this state shall be, and are hereby, continued under their present organization and the control of their present commissioners; and the commissioners, superintendents, stewards, and other officers shall hold their offices for the term for which they were respectively appointed, but subject to removal according to law. Each asylum is declared to be a body-politic and corporate, for the benefit of the state—that at Lexington, by the name of the “Eastern Kentucky Lunatic Asylum;” that at Hopkinsville, by the name of the “Western Kentucky Lunatic Asylum;” and that at Anchorage, by the name of the “Central Kentucky Lunatic Asylum;” and as such shall have perpetual succession; may have and use a common seal; may make contracts; may sue and be sued; may receive any gifts or devises in aid of objects of its institution; and shall have all other rights and powers, incident to corporations, which are necessary and proper for carrying out the purposes for which it was established. The said corporations are severally invested with the title to all the property and rights of action now held by the institutions respectively.*

2. The board of commissioners for each asylum shall be composed of nine discreet business men, residing within six miles of the asylum, appointed by the governor by and with the consent of the senate, and he may fill vacancies that happen, in the recess of the senate, by granting commissions, which shall expire at the end of its next session. The term of office of each commissioner shall be six years, except the boards appointed first after the passage of this act. The board of commissioners of each and every of said asylums, at their first meeting, which shall be held at their respective asylums

* This act of 1876 and its amendments will also be found in General Statutes of 1881 as chapter 73.

on the first day of May, 1876, shall divide by lot their respective boards into three classes; three commissioners shall be allotted to each class, and the seats of the first class shall be vacated on the first day of January, 1878; that of the second class vacated two years thereafter; that of the third class vacated four years thereafter from the first day of January, 1878, and so one class of three commissioners shall vacate every two years. Each commissioner, before entering upon the trust, shall take an oath that he will well and faithfully discharge the duties thereof.

Board to be divided into classes.

Commissioners to take oath.

3. The governor is hereby authorized to appoint the commissioners for the respective asylums from the county in which the asylum is situated.

Act of 1876, ch. 1012, § 1. Appointment.

4. (1) The commissioners shall elect one of their own number president of the board. A majority shall constitute a quorum, but a concurrence of not less than a majority of all the board shall be necessary for the allowance of any claim or the transaction of any other business; and such proceedings shall not then be binding until the record thereof shall have been approved and signed by the president, and countersigned by the secretary.

Act of 1876, ch. 900, § 3. Board to elect own president; majority is a quorum; record must be signed by president, attested by secretary.

(2) They shall have the general management and control of all the land, buildings, funds, books, papers, and other effects and property of their respective asylums, and shall cause them to be used and applied in the way best calculated, in their judgment, to promote the objects for which the institution was established. They shall cause all state appropriations to be used as directed by law, and all private donations and grants to be sacredly applied to the purposes specified by the donors or the grantors; but the state reserves full control over the institutions, their officers, and affairs.

Board to have management.

(3) They shall make such by-laws and regulations as they may deem necessary for the government of the institutions and of all officers and employes connected with them.

By-laws.

(4) They shall hold regular meetings at the asylums at least once in each month, and oftener, if the interests of the institution shall require. Meetings may be called by the president or any two commissioners. They shall

Monthly meetings and inspections.

maintain a vigilant inspection of the asylums, for which purpose one of them shall visit them every week, two in each month, a majority in each quarter, and the whole board once in every six months, in the manner and at times prescribed by the by-laws. The visiting commissioners shall note in a book

Visits required of commissioners.

Three months' non-compliance vacates office.

kept for the purpose the date of each visit, the condition of the house, patients, etc., with such remarks as may be deemed necessary. Any commissioner who cannot or will not comply with his duty as visitor for three months shall vacate his office, and the president shall report the same to the governor, who shall fill the vacancy.

(5) They shall appoint a secretary and treasurer and matron for the term of four years, and may remove them at their discretion, and fill their places with others.

Secretary and treasurer, appointment—terms of office.

No officer shall sell anything to asylum.

Office of secretary and treasurer not to be held by same person.

No secretary or treasurer shall be a member of the board of commissioners, and no commissioner nor other officer shall sell anything to the asylums nor make with them any contracts in which he is directly or indirectly interested, nor shall the office of secretary and treasurer be held by one and the same person.

(6) They shall keep a record of all their proceedings, which, together with the books of the secretary, treasurer, and steward, and other officers, and all books and papers of the institutions, shall always be open to the inspection of the superintendent or any commissioner, the governor, a committee of the legislature, or any person appointed by either the governor or the legislature for their examination.

Record of all proceedings to be kept, and subject to inspection.

5. There shall be for each asylum a medical superintendent, who shall be a skilful physician, and a steward; and for the eastern Kentucky asylum a first and a second assistant physician; and for the central Kentucky asylum, one assistant physician. These officers shall reside in the asylum. They shall be appointed by the governor, by and with the advice and consent of the senate; and he may fill vacancies that happen during the recess of the senate, by granting commissions that

Ibid § 4. Officers of asylums, how appointed and term of office.

Vacancies filled by governor.

Subject to removal by governor.

shall expire at the end of its next session. Their term of office shall be four years; but they shall

be subject to removal by the governor at his discretion. These officers, and also the treasurer and matron, shall receive such compensation as is now provided by law, Compensation, how paid. except as otherwise provided herein; and the salaries of all officers shall be paid out of the general appropriation made by the state for the support of the institution.

6. (1) The medical superintendent shall have the general management, supervision, and control of the asylum and patients, subject to the regulations of the board of commissioners, and shall devote his entire time thereto. He shall keep a register of all patients, showing their names, ages, residences, dates of reception and discharge or death by whose authority received or discharged, and whether they are pay patients or paupers. Ibid § 5. Medical superintendent, duties of.

(2) The superintendent shall appoint all such other inferior officers and employes (not otherwise provided for in this act) as he may deem necessary for the proper management of the institution, and he may remove any of them at pleasure and fill their places with others. Other inferior officers to be appointed by sup't.

(3) It shall be the duty of the superintendent to appoint a receiver, to be approved by the commissioners, whose duty it shall be to receive all goods and supplies of any and all kinds purchased for the use of the asylum; take charge of them, see that they correspond with the bills accompanying them in character, quantity, and quality; weigh or measure the same, and distribute them to each and every department of the asylum as the superintendent may direct by written order; and in a book kept for the purpose open an account with each and every department, charging therein cost price for all goods so received and distributed. This book shall be open at any and all times for the inspection of the superintendent, any commissioner, and of the governor, a committee of the legislature, or any person appointed by either for the examination. Receiver, appointment and duties of.

7. In case of the sickness or absence of the superintendent, his duty shall be discharged by the first assistant physician; and if the first assistant be absent or sick, then by the second assistant physician, if there be any. Ibid § 6. Absence of superintendent.

8. The treasurer, before acting as such or receiving any funds of the institution, shall execute covenant to Ibid § 7. Treasurer to

give bond, the commonwealth in the sum of thirty thousand
 \$30,000 every dollars, with sufficient sureties, approved by the
 two years. governor, and by the respective county judges of the county in
 which the asylum is situated, for the safe-keeping and proper
 disbursement and appropriations of all money, and other
 means and effects, which may come to his hands as such, and
 for the faithful discharge of all other duties devolved upon
 him. These covenants shall be renewed once in every two
 years, and oftener, if required by the board. Suit
 for any breach thereof may be brought, in the name of the
 commonwealth, for the use of the asylums, and of any other
 person interested, upon order of the board of commissioners.

9. (1) The treasurer, under order of the board of commis-
 sioners, shall receive from the treasurer of the state
 all moneys appropriated for the use of the asylum,
 and receipt to him therefor. It shall be his duty,
 also, to receive, collect, sue for, and pay out all
 moneys due and belonging to the asylum, and he
 shall settle his accounts with the board at least once in every
 three months, and with the auditor in the month of Decem-
 ber of every year.

(2) He shall make to the governor, quarterly, a report of the
 financial condition of the asylum, including a de-
 tailed statement of the income and expenditures for
 the quarter.

(3) He shall keep all the money coming to his hands as treas-
 urer to his credit as such in one of the banks incor-
 porated by the laws of this commonwealth. It shall
 be unlawful for him to appropriate any part of it to his own
 use, or to lend any of it to any other person, or to pay out or
 disburse any of it, whether in liquidation, in whole or in part,
 of any claim against the asylum, or for any other object what-
 ever, except upon the warrant of the president, countersigned
 by the secretary; or to check or draw any of it out of bank, ex-
 cept for the payment of such warrants after they have been
 drawn; and for all violations of these prohibitions
 he and his sureties are made liable on his official
 bond for the amount of the sum or sums so unlawfully appro-
 priated, lent, paid, disbursed, checked, or drawn out, with ten
 per cent. damages, recoverable in any court of competent juris-

Ibid § 8.
 Treasurer to
 receive all
 moneys and
 receipt for
 same, and set-
 tle accounts
 every three
 months.

Make report
 to governor
 quarterly.

Shall deposit
 funds in bank.

Penalty for
 violation of
 duty.

diction in this commonweath. All money appropriated by the state for the use and support of the Eastern lunatic asylum, or collected from any source for the use of pay patients, or any other purpose, by the treasurer of said institution, shall be deposited in bank as now provided by law; and it shall not be lawful for the officers of such bank to pay out said money, or any portion thereof, unless the checks therefor are signed by the said treasurer of the asylum, and countersigned by the president of its board of commissioners.

Amendment
of 1878, ch.
1033, § 1.
Deposits of
money, and
how to be
drawn out.

(4) He shall keep true and complete books of account of all his financial transactions, incident to the management of the asylum, specifying whence received, and for what expended, and of all sums receivable and payable.

Shall keep
books of ac-
count.

10. (1) No amount or claim of any kind brought against either of the asylums, whether by an officer thereof or any other person, shall be paid in whole or in part, until it shall have been first examined and indorsed by the superintendent and submitted to the board of commissioners and determined by them to be just and right, and directed to be paid by an order entered on the record of its proceedings; and the president shall not issue any warrant on the treasurer, except for the amounts of claims which have been so submitted to the board, allowed by it, and ordered to be paid.

Ibid § 9.
Payment of
accounts.

(2) Whenever he shall issue any such warrant he shall cause the number, date, and amount thereof, and the name of the person in whose favor it is made, to be entered by the secretary in a separate book kept for that purpose; and whenever he shall receive any money for the use of the asylum, he shall cause the same to be entered by the secretary in said separate book, but in a different part of it, stating the amount of money, the character and amount of means, and when and from whom received, and thereupon he shall deposit said money and other means (of whatever character they may be) with the treasurer and take his receipt therefor, and preserve it as a voucher.

All amounts
paid to be re-
corded.

Money receiv-
ed how to be
booked.

11. (1) The steward, by direction of the superintendent, shall purchase and furnish to the asylum all needed supplies of every description, and shall consult him as to the character, quantity, and quality of all such supplies.

Ibid § 10.
Steward,
duties of.

They shall be bought where they can be bought cheapest, due regard being paid to quality as well as price. He shall not draw on the treasurer for money to pay for such supplies, in whole or in part, but shall cause itemized accounts of the same to be made, in the names of the sellers, against the asylum, setting forth separately the date of purchase and the name and price of each article of purchase, and shall present these accounts, indorsed by the superintendent, to the board of commissioners for allowance. And he shall carefully enter in a book kept for the purpose the number, dates, and amounts of the warrants issued by the president for payment of the accounts for supplies purchased by him, and the names of the persons in whose favor they are made.

(2) He shall have charge of the farm and garden attached to the asylum, and shall have and control the cultivation and management of the same, subject to the regulation of the board of commissioners. Within the first Shall manage farm, etc. week after entering upon his duties, he shall take and file a complete inventory of all the crop on hand, live stock, farming utensils, vehicles, and all other effects properly pertaining to the farm and garden, and shall preserve and be responsible for these and for all subsequent products of the farm and garden, and all other stock and effects that may come into his charge in the management thereof, and none of them shall be taken therefrom without the knowledge and consent of the superintendent.

(3) It shall be his duty to furnish for the asylum such supplies from the farm and garden as can be provided Supplies from garden and farm; monthly statement. therefrom, and to present monthly to the secretary written statements of the kinds, amounts, and market value of the supplies so furnished, verified by certificates from the officers through whose hands they have passed. These statements shall be entered in the books of the secretary and steward, and filed and kept by the latter as vouchers.

(4) No stock or produce of the farm or garden shall be sold Stock or produce of garden or farm not to be sold except. by the steward without authority from the board of commissioners; and when sales are made, he shall pay and deliver the proceeds to the treasurer, and take his receipts therefor, specifying what was sold, to whom, and for what price. These receipts shall be recorded in the

books of the secretary and steward, and filed and kept by the latter in his office as vouchers.

(5) It shall be the duty of the steward to keep a complete record of all his official acts, and to report them to the governor monthly, along with the statement of the condition of the farm and garden, and the number, character, and condition of the stock under his care and control. He shall annually, during the month of November, make and render to the board of commissioners a true and perfect inventory, verified by oath, of all the personal property of every description belonging to the asylum, with the estimated value of the various articles.

Steward to
keep record
of acts, etc.,
and report.

(6) Before entering on the duties of his office, he shall give a covenant to the commonwealth, with good security, worth four thousand dollars, approved by the county judge of his county, for the faithful discharge of his duties; which covenant shall be filed with and preserved by the secretary. The steward hereafter appointed to either of the lunatic asylums in Kentucky shall receive for his services the sum of eight hundred dollars per annum, and his board and lodging at the asylum, or in lieu of said board and lodging, a reasonable allowance to be made by the commissioners; but the family, if any, of the present steward, or those hereafter appointed, shall not be supported by the asylum fund, nor shall said family in any way be a tax thereon. The board of directors of each of the three lunatic asylums shall fix the compensation of the steward of such asylum at a salary not exceeding eleven hundred dollars per year: *provided, however*, that such salary shall be paid, as now provided, out of the per capita allowance annually made to each asylum.

Covenant of
steward.

Salary \$800,
etc.

Amendment
of 1892, ch.
1123, § 1.

12. It shall be the duty of the governor, whenever, in his opinion, the interest of the commonwealth demands, to appoint a special auditor to inspect the books and the accounts kept in either asylum, and report its true financial condition and management as respects receipts and disbursements, and the propriety thereof.

Ibid § 11.
Governor
may appoint
special
auditor.

13. The commissioners and all officers of the asylum and the servants of the asylum, shall be exempt from militia duty, from working on the public highway,

Ibid § 12.
Exemption of
officers, etc.

and from serving on any jury. Nor shall the officers and servants be required to give personal attendance as witnesses in any civil suit of the county in which the asylum is situated, but their depositions shall be taken in lieu thereof.

14. Actions in behalf the asylum may be instituted in any court of this commonwealth, in which the same would be proper as between individuals.

Ibid § 19.
Where actions in behalf
of asylum instituted.

15. The superintendent and board of commissioners shall, on or before the first of November in each year, make a report to the governor of the condition of the asylum under their charge, exhibiting the amounts of income and expenditure, for what the expenditures were made, the number and names of the patients (distinguishing pauper from pay patients, and specifying the places from which they came), the number received and discharged each year, with such other facts and suggestions as they may deem important, which report the governor shall communicate to the legislature at its next regular session.

Ibid § 20.
Report of su-
perintendent
and board.

16. The president of the board of commissioners and the superintendent of each asylum shall, every three months, jointly certify, on oath, to the auditor of public accounts, the number of patients actually supported in the asylum, specifying the number of paupers, of those who pay in full, and those who pay in part, and the amount paid in part by each, [and the amount of any unexpended balance of the state appropriations over and above the debts and liabilities then existing against said asylum, remaining in the hands of the treasurer]. Thereupon the auditor shall draw his warrant on the state treasury in behalf of such asylum for a sum equal to [one hundred and sixty-five dollars] a year for each pauper patient so supported, and for so much in addition as will, when added to the sum paid by those partially dependent on the charity of the commonwealth, be equal to [one hundred and sixty-five dollars] for each patient; the sums herein mentioned to be drawn in advance. But it is to be understood that out of this permanent appropriation the board of commissioners shall pay for all repairs to and expenses of the institution, and the salaries

Ibid § 21.
President
and superin-
tendent to
certify every
three months
to auditor,
and what.

First amend-
ment of 1880,
ch. 939, § 1.

When auditor
to issue war-
rants, for what.

Second amend-
ment of 1880,
ch. 939, § 1.

Amount of sup-
port.

Second amend-
ment of 1880,
ch. 939, § 1.

Repairs and
expenses.

and wages of all officers and employes, but not the expenses of conveying patients to the asylum. And they shall incur no liability on behalf of the state for any purpose beyond the amount received from the treasury and from pay patients. [The auditor shall estimate any unexpended balance reported by the chairman of the board of managers and the superintendent of any one of the asylums as a part of its next quarterly allowance, and draw his warrant only for a sum sufficient, with said balance, to make complete the sum allowed by law for each quarter. In addition to the pay now allowed the officers of said asylum, each superintendent and steward shall be entitled to comfortable furnished quarters for themselves and their families, at or convenient to their respective asylums, and the assistant physicians and matrons each with a comfortable furnished room; [and each superintendent and his family, and the other said officers, shall be entitled to take their meals in the institutions at the expense of the state]; no commutation, however, shall be allowed in lieu of said meals and quarters, nor shall said officers be entitled to or receive, directly or indirectly, any other or further perquisites or compensation for their services; and any officer, employe, or other person connected with any of said asylums, who shall use or authorize the use of any money or other thing of value for private purposes, not authorized by law, shall be amenable to the punishments now provided for such offenses, and, in addition thereto, shall be reported by any person cognizant of the fact to the governor, who shall remove, or cause to be removed from the employment of the state, any person wilfully guilty of said offense.]

Third amendment of 1880, ch. 939, § 1. Auditor to estimate on balance.

Superintendent and steward furnished quarters, etc.

Amendment of 1882, ch. 1128.

Penalty for private use of money or property of institution.

17. The superintendents shall examine all claims and accounts against their respective asylums, and report any fact or circumstance indicating any irregularity, fraud, or wrong to the board of commissioners; and if they have any doubt of the justice or legality of a claim, they may require both the superintendent and the steward to endorse their opinions, in writing, on the back thereof; and it shall be the duty of said officers to endorse any claim when required by the board to do so, and not

Act of 1880, ch. 939, § 2, supplemental to § 21 supra. Superintendent to examine claims.

otherwise; and the board of commissioners shall not direct any claim, or part thereof, to be paid until they are satisfied, from such investigations as may be necessary, that the same is just, legal, and right.

18. The president of the board of commissioners, and the superintendent of each of the lunatic asylums, shall, in addition to the facts now required by section 21 of said act, approved March 20, 1876, and the acts amendatory thereto, to be certified every three months to the auditor of public accounts, also in the same manner, and at the same time, certify the number of idiots, epileptic imbeciles, and harmless, incurable lunatics in their respective asylums that they have the right under the law to return to the counties of their residence or whence they came, and the auditor shall not draw his warrant on the state treasury in behalf of any asylums for any sums for the support of any such patient. All pauper idiots, epileptics, and harmless, incurable lunatics, shall be returned by the asylums in which they may be confined, to the several counties from whence they were sent, and delivered into the custody of their friends, if any; if not, then to the county judges, who shall make suitable provision for their keeping out of the annual seventy-five dollars appropriation now allowed such person by law reported as aforesaid; and said asylums, in the way prescribed by law, shall, as soon as may be, send each paying patient of the aforesaid class to the counties of their residence, or whence they came. The capacity of each of said institutions shall be reported by the board of commissioners to the governor, who shall, in his discretion, order patients to be transferred from one asylum to the other to prevent any one of the asylums from becoming more crowded than another.

19. If the necessities of the institution should demand the temporary employment of additional physicians, the board of commissioners may order the employment of not exceeding two, who may thereupon be appointed by the superintendent, by and with the advice and consent of the board. Their employment shall be subject to be terminated by the board when it thinks proper.

20. The board of commissioners may effect and keep insurance for reasonable amounts upon the asylum

Act of 1880,
ch. 1476, § 1,
supplemental
to § 21 supra.
Pauper idiots,
etc., to be re-
turned.

Act 1876, ch.
900, § 23.
Additional
physicians.

Ibid § 24.
Insurance.

buildings, with some good insurance company or companies, and pay the premiums out of the funds of the institution.

21. The property mentioned in this section shall be exempt from all taxation, viz: * * * , the real estate and investments devoted to * * * lunatic asylums.

G. S. of 1881,
ch. 92, art. 1,
§ 3.
Frees propy.
from taxation.

22. Under no circumstances shall it be permitted that, by the reception of pay patients from other states, the asylum be so crowded that any delay shall be incurred in the immediate reception into the asylum of patients resident in this commonwealth, either paying or pauper.

Act of 1876,
ch. 900, § 13.
Pay patients
from other
states.

23. No private patient, who has not been found to be insane by regular inquest, shall be received into either of said asylums. Nor shall any patient be discharged as cured, or delivered into custody of friends, whose friends have placed him in the asylum, but by permit of superintendent and two commissioners. Any cured patient who was committed to the asylum, whilst in custody of the law upon a criminal charge, shall be delivered to the keeper of the penitentiary, or to the jailer of the county whence he came, as the case may require. A cured pauper, before being discharged, shall have a good suit of clothes, and be furnished with money enough to pay his traveling expenses back to home, not exceeding twenty dollars.

Ibid § 14.
Private pa-
tients.

Discharge of
patients.

Patient charg-
ed with crime
shall be deliv-
ered to keeper
of penitenti-
ary or jailer.

What furnish-
ed upon dis-
charge.

24. The commissioners may charge for board of paying patients any sum, in their discretion, not exceeding four dollars per week; and when the estate of the patient warrants it, his committee may contract for his receiving special comforts, and being exempt from work, at an additional rate, not exceeding five dollars per week.

Ibid § 15.
Board of pay-
ing patients.

25. No patient, except those who are paupers, according to the provisions of section 5, article 2, chapter 53, of the general statutes, and of any amendments which may be made thereto, or who have been, or may be, sent to the asylum, by order of the court, upon an acquittal of crime, on the ground of insanity, shall be received or retained in either of the lunatic asylums of this state, unless six months' board be always paid in advance, and board for the residue of

Ibid § 16.
What patients
may be re-
ceived.

the time they may remain in the asylum be secured by the obligation of one or more sufficient residents of this state; and the courts or officers shall make their orders for the commitment of all patients (with the above exceptions) to the asylums conditional upon such prepayment being made and security given. But if the patient be discharged or die before the expiration of the six months paid for, a proper portion of the amount paid shall be refunded.

Orders of
courts, how to
be made.

26. No married person of unsound mind shall be held a pauper under the provisions of the aforesaid section of the general statutes, unless it shall be found upon the inquest, in addition to the other facts required, that such person's husband or wife (as the case may be), if living, has not sufficient estate to support the person of unsound mind, besides supporting others who may be dependent on such husband or wife; and the court or officer holding the inquest shall require the jury to return a finding on this subject.

Ibid § 17.
Married persons.

27. Where patients who have been or may be supported in either of said asylums, have or shall acquire estate which can be subjected to debt, the board of commissioners of such asylum is authorized and directed, in every such case, to sue for, in the name of the asylum, and recover the amount of such patient's board, at the rate of two hundred dollars per year, or so much thereof as such estate will suffice to pay, for the time they shall have been respectively kept and maintained therein, and not otherwise paid for; and by proper proceeding to subject their estates respectively to the payment thereof; and when the husband or parent of any such patient, who has been or may be supported in either asylum, shall have estate sufficient for the support of such patient, in addition to the support of any others who may be dependent on such husband or parent, the board of commissioners is authorized and directed, in like manner, to sue and recover from such husband the amount of his wife's board, and from such parent the amount of his or her child's board, at the rate aforesaid, for the time they shall have been respectively supported by such asylum.

Ibid § 18.
When commissioners to
sue for board.

28. The expenses of conveying pauper patients to the asylum shall be paid to the persons conveying them by warrant of the auditor on the treasury of the state; the

Ibid § 22.
Expenses of
conveying
paupers.

sum due for conveyance to be certified by the superintendent of the asylum to which the patient is carried. Only one person shall be paid for conveying any patient, unless the court shall say that an additional guard or guards are necessary; and the cost shall not exceed six cents per mile for the guard or guards and patient, each, going, and six cents per mile for the guard returning; the distance to be estimated by the nearest usual route of travel. If the patient cannot be received by the asylum, six cents per mile for his or her returning shall also be allowed. But no allowance shall be made for such expense of either guard or patient to or from the asylum, unless either an application has been made, first by letter to the superintendent, or an order of court made to carry the patient to the asylum immediately pursuant to the provisions of section 21 of article 2, chapter 53, of the general statutes, entitled "Idiots and Lunatics."

29. (1) White lunatics and idiots resident in Kentucky, and found in the counties of Kenton, Grant, Owen, Franklin, Anderson, Mercer, Boyle, Lincoln, Pulaski, and Whitley, or any county east of these, when sent to an asylum, shall go to, and be received under the legal requirements by, the eastern Kentucky lunatic asylum, if there be room therein. Those found in any county west of these, and east of the counties of Breckinridge, Grayson, Edmonson, Barren, and Allen, shall be sent to, and in like manner be received by, the central Kentucky lunatic asylum. And those found in the counties last named, and the residue of the state, shall be sent to, and in like manner be received by, the western Kentucky lunatic asylum.

Ibid § 25.
White lunatics, etc., to be sent to eastern asylum.

To central asylum.

Western asylum.

(2) Colored lunatics and idiots resident in Kentucky, and found in the counties of Kenton, Grant, Owen, Franklin, Anderson, Washington, Marion, Taylor, Adair, Russell, and Clinton, or any county east of these, if sent to an asylum, shall go to, and be received under the legal requirements by, the eastern Kentucky lunatic asylum, if there be room therein. Those from the rest of the state shall be sent to, and in like manner be received by, the central Kentucky lunatic asylum.

Colored lunatics to be sent to eastern asylum.

To central asylum.

(3) Whenever the number of patients sent to either asylum is

When one asylum full, patient may be sent to another. greater than can be properly accommodated and cared for in that institution, and there is at the time capacity for the reception and care of the patient at either of the others, it shall be the duty of the commissioners and superintendent of such other to receive as many of those rejected at the former, for want of room, as can be properly accommodated. When, upon application to the proper asylum, the patient is rejected for want of room, immediate application *Proviso.* shall be made to another; *provided however*, that colored patients shall only be sent to or kept by the eastern and central asylums; *and provided also*, that the white and colored patients shall not be kept in the same buildings.

(4) The governor is empowered and directed to take care that each of the asylums is kept full to its utmost capacity of such patients as are receivable by it, as long as any such patients in the state are unprovided for, and that each receives its due proportion of the patients in excess of the ordinary capacity of the asylum.

30. No order shall be made by any court or officers for sending a pauper idiot to an asylum, nor shall such idiot be received therein unless the jury, by their verdict, on the inquest, shall find that he is so dangerous or uncontrollable that he cannot be safely and properly kept by a committee within the county.

31. (1) In order to relieve the state from an undue accumulation of patients, the several asylums may send back to the counties of their residence, or whence they came, any idiots [epileptic imbeciles, and harmless incurable lunatics] who are now, or may hereafter be, in such asylums, and who, in the judgment of the commission herein authorized, can be safely and properly kept by a committee within their counties. The

president of the board of commissioners of each asylum, the superintendent, and one other of the commissioners, to be from time to time appointed by the board, as necessity may arise, shall constitute a commission to act upon such cases as the superintendent, [or the assistant physician, or either of them] may propose to send back. They shall investigate each case carefully and thoroughly; and if, after such investigation,

When one asylum full, patient may be sent to another.

Governor must supervise as to number of patients.

Ibid § 26. Sending pauper idiot to asylum.

Ibid § 27. Amendment of 1878, ch. 907, § 1. Idiots may be now sent to county and put in charge of committee.

Duties of commissioners in regard to.

Amendment of 1878, ch. 907, § 4.

they shall all concur in opinion that any specific patient is so quiet, harmless, and governable, and his physical condition is such that he can be safely and properly kept by a committee within the county, they shall, in each case, make duplicate certificates of the determination, signed by them all, one to be filed and kept by the superintendent, the other to be sent with the patient.

(2) Thereupon it shall be the duty of the superintendent to send each paying patient, as to whom such certificate shall be made, back to the county of his residence or whence he came, and deliver him, with one of said certificates, to his committee, if there be one; if there be no committee, then to his friends who have provided for his support; and he shall send each pauper patient, as to whom such certificate shall be made, back to the county of his residence or whence he came, during the term of the court having general equity jurisdiction therein, to be brought before said court, that it may provide for his custody and support. The certificate of the commission aforesaid, and a copy of the original inquest papers, if remaining at the asylum, shall be sent along with the patient, and presented to the court; and it shall be the duty of the attorney for the commonwealth, or, in his absence, the county attorney, to procure the proper steps to be taken in such cases.

Duty of superintendent, courts commonwealths, and county attorneys in regard thereto.

(3) The courts, in cases brought before them under these provisions, shall take proper proceedings and make the proper orders for the custody and support of such idiots.

Duties and powers of courts in such cases.

(4) The said courts shall have power to direct such pauper idiots to be kept in the poor-house of the county, if there be one; and in such cases the allowances for their support shall be paid to the receiver of the poor-house, who shall be liable on his official bond for a faithful appropriation and a just account thereof.

Court shall direct, etc.

(5) The foregoing provisions apply equally to male and female patients.

Male and female patients.

32. The cost of returning pay patients is to be defrayed by their respective committees, if they have any, and, if they have no committee, or friends or relatives able and willing to pay such cost, then the cost of

Act of 1878, ch. 807, § 2. Who to pay cost of returning.

removal to be paid the same as in case of pauper patients—the cost of transportation of pauper patients to be paid by certificate, made on the auditor, and certified to by the superintendent in the name of the asylum sending such patients away, which shall be the same as now regulated by law for conveying pauper lunatics to the asylum.

33. This act shall apply to all patients who have been regularly committed to the lunatic asylums by proper inquest, and the amount allowed for their sustenance and support shall be [seventy-five dollars] each per annum, which shall be paid by direction of the court making the order for the custody of the returned patient, which order shall be certified to by the clerk of the court making the order, directed to the auditor of the state, who shall issue his warrant on the treasurer for the sum allowed annually in favor of the party named in the order of the court.

Ibid § 3,
as amended
1880, ch. 1570,
§ 1.
Warrants for
support of re-
turned pa-
tients.

34. All pauper idiots, epileptics, and harmless incurable lunatics that have been or may hereafter be returned by the asylums in which they may have been or may be confined, to the several counties, shall be delivered into the custody of their friends, if any; if not, then to the county judges thereof, if they be residents of and sent from the county of Jefferson outside of the city of Louisville, and to the mayor of the city of Louisville, if they be residents and sent from said city, who shall make suitable provision for their keeping out of the annual seventy-five dollars appropriation now allowed such persons by law.

*Act of 1881,
ch. 87, § 1.
Custody of re-
turned pa-
tients in
Louisville.*

This act shall only apply to Jefferson county and the city of Louisville.

Ibid § 2.

35. The several courts having general equity jurisdiction in this commonwealth have power and jurisdiction within their respective counties over the care and custody of the persons and estates of all idiots, lunatics, those who, from confirmed bodily infirmity, are unable to make known to others by sign, speech, or otherwise, their thoughts or desires, and by reason thereof incompetent to manage their estates, and those whose minds, on account of any infirmity, or weight of age, have be-

*Ch. 53, art. 1,
§ 1. Jurisdic-
tion of courts
having a
general equi-
ty jurisdiction
over the per-
sons and
estates of
idiots and
lunatics.*

come so imbecile or unsound as to render them incompetent to manage their estates; as also over their committees, with power to appoint, suspend, and remove committees for them, upon the same terms and in the same manner, as is given over the persons estates and guardians of infants.

[Jurisdiction in inquests of idiots shall be confined to circuit court and criminal courts alone.]

Amendment
of April 24,
1882, § 1.

36. The courts aforementioned may, on the application of a committee, order the sale of the whole or any part of the real estate of an idiot, lunatic, imbecile, or incompetent person, when indispensably necessary for the payment of debts or for the maintenance of such person and his family, and where the personal estate, with the rents and profits of the real estate, are not adequate for that purpose.

Art. 1, § 2.
Real estate
may be sold to
pay debts, or
for mainte-
nance.

37. The power and duty of the committee of an idiot, lunatic, imbecile, or incompetent person, shall, in all respects, be the same as those of the guardian of an infant, except as to education. But the court may appoint a person other than the committee to take charge of the person of the idiot or lunatic when he is not confined in a lunatic asylum, and make the necessary orders for his support upon the committee.

Ibid § 3.
Power and
duty of com-
mittee.

Another may
be appointed
to take charge
of the person.

38. No judgment shall be binding on an idiot, lunatic, imbecile, or person incompetent having a committee, unless the committee be also brought before the court, nor shall any action be prosecuted in the name of such idiot, lunatic, imbecile, or person incompetent without the assent of his committee, unless for special cause, the court in which it is brought shall permit its prosecution at the instance of another as next friend.

Ibid § 4.
In suits com-
mittee must
be brought be-
fore court.

No suit with-
out assent of
committee.

(1) If there be no committee, the court may proceed by the appointment of a next friend.

When there is no committee.

(2) If there be a committee, and the idiot or lunatic is confined in an asylum, service of process on the committee alone shall be sufficient to bind the idiot or lunatic.

When idiot or
lunatic in asy-
lum.

39. A committee shall not be appointed to an idiot, lunatic, or person charged to be imbecile or incompetent, who is a resident of this commonwealth, unless he

Ibid § 5.
Committee
not to be ap-
pointed ex-

cept upon judgment of court. has been heretofore or may hereafter be found to be such by the judgment of a court of competent jurisdiction in the county of his residence; or, if a non-resident, by the judgment of such court in the county of his residence.

40. A person is a pauper idiot or lunatic, within the meaning of this chapter, who has been found, by the verdict of a jury, to be an idiot or lunatic, and that he has no estate sufficient for his support; and also that his parents, if alive, have not sufficient estate to maintain him, and that he is unable to work for a support; and the order of court, making and certifying the annual allowance for the support of the idiot, shall be made on proof, and so state, and shall also state that the idiot is then alive, and a pauper. Upon such certificate, if a copy of the inquisition required to be filed by the provisions of this chapter has been filed with the auditor, he shall issue his warrant upon the treasury for the amount due, not exceeding seventy-five dollars per year, and at that rate for a greater or less time.

41. Hereafter it shall not be lawful for any court in this commonwealth to allow, for the sustenance and support of any idiot, epileptic, or lunatic, whether he has been returned from an asylum or not, more than seventy-five dollars per annum, which shall be paid as such claims are now paid by law.

42. If any person be of unsound mind, it shall be the duty of some court of the county in which he resides, having general equity jurisdiction, upon the application of the attorney of the commonwealth, or, if he be absent, of the county attorney, to cause an inquest by a jury to be held in open court, to inquire into the fact. The court shall appoint some member of the bar to represent and protect the interest and rights of the person alleged to be of unsound mind; and it shall also be the special duty of the attorney for the commonwealth, or for the county, to prevent the finding of any person, as an idiot or lunatic who, in his opinion, is not such; or the finding of any person an idiot who is a lunatic.

43. The commonwealth's attorney shall be especially charged with the duty of being present at all inquests, and shall, whenever the interests of the state

Art. 2, § 5.
Who a pauper
lunatic, al-
lowance.

Act of 1880,
ch. 1570, § 1.
Limit of
allowance
for support.

Ch. 53, art. 2,
§ 8.
Inquest to be
held.

Attorney for
defendant to
be appointed.

Act of April
24, 1882.
Duty of com-

may require it, introduce evidence as to the claims which these persons may have upon the state for an allowance. monwealth's attorney.

44. The following oath shall be administered to the jury: "You do swear that you will well and truly inquire, and, from the evidence, say in your verdict, whether A. B., the person whom you have in charge, is of unsound mind, and, if of unsound mind, whether he is an idiot or lunatic—that is, whether he was destitute of mind from infancy, or has lost it since his birth; and if he has lost it since his birth, that you will state when, and, as far as you can from the evidence, the cause of it. You will also inquire and state his birth and residence, and whether he has been brought into this state by any person, and by whom, for the purpose of becoming a charge upon the commonwealth. That you will find what estate, and the value thereof, he owns in possession, reversion, or remainder; whether his parents are alive; where they reside; and whether they have estate sufficient to support the person under trial; whether he is capable of laboring, in whole or in part, and what part, for his support." The judge shall instruct the jury upon the whole case, so as to enable them to decide the question, whether the defendant is an idiot or lunatic. Ch. 53, art. 2, § 7. Form of oath to jury. Judge to instruct the jury.

45. On return of the verdict, if the court is satisfied with the inquest, judgment shall be entered upon it according to the finding. If the judge who presides shall be of opinion the verdict is not sustained by the evidence, or is against law, he shall set it aside and award a new inquest. Ibid § 8. Judgment on verdict or new trial. Verdict may be set aside.

46. No inquest shall be held unless the person charged to be of unsound mind is in court, and personally in the presence of the jury. The personal presence of the person charged shall not be dispensed with, unless it shall appear by the oath or affidavit of two physicians that they have personally examined the individual charged to be of unsound mind, and that they verily believe him to be an idiot or lunatic, as the case may be, and that his condition is such, that it would be unsafe to bring him into court. Ibid § 9. Personal presence of the person charged. Exception.

47. The circuit court clerk of each county shall transmit to

Ibid § 12.
Clerk to send
list of pauper
idiots.

Pauper idiots
and lunatics
may be sent to
asylum.

the auditor, on or before the 10th of September in each year, a list of the pauper idiots in his county; if he fail to do so without good cause, he shall be fined fifty dollars. All pauper idiots and lunatics may be sent, by order of a court to the lunatic asylum, and shall be maintained, during the continuance of the malady and stay in the hospital, at the expense of the commonwealth. If not so sent, the expense of maintaining lunatics shall not be a charge upon the commonwealth.

Ibid § 13.
Oath of jury
in inquests on
imbecile or in-
competent per-
sons.

48. In all inquests held in respect of persons alleged to be imbecile or incompetent to manage their estates, the court shall cause an oath to be administered to the jury in such form as to ascertain, by the verdict, whether such person, by reason of bodily infirmity, disabling him or her from making their thoughts and desires known, or by reason of any infirmity or weight of age, is incompetent to manage his or her estate; and also what estate he or she owns in possession, reversion or remainder, and the value thereof.

Ibid § 14.
as amended
1892, ch. 55.
Who may
hold in-
quests.

49. Inquests under and according to this chapter shall, when a circuit court is in session in the county in which the inquest is held, be held only by such circuit court. When no circuit court is in session in the county, such inquest may be held by a judge of a circuit court or of a court of common pleas, or by a chancellor or vice-chancellor, or by the presiding judge of the county court, or by the judge of a city or police court. The officer who presides at such inquest may make all orders for the care of the person found to be of unsound mind; but if it is found upon the inquest that the insane person has any estate, it shall be the duty of the officer presiding at such inquest to certify the facts concerning said estate to the chancery court if there be one in the county where the inquest is held, or if not, then to the circuit court, and it shall be the duty of the judge of said chancery or circuit court, as the case may be, to make all necessary orders for the appointment of a committee and the security of the estate and care of the person found of unsound mind; but the officer holding the inquest may order the person found insane to the lunatic asylum when it would be proper for a court to do so, and may appoint a tem-

porary committee for that purpose, and take from him bond and surety payable to the commonwealth for a faithful discharge of the duties of his station. Upon which bond, for a violation of its stipulations, any person aggrieved, or the committee thereafter appointed by the court, may sue in the name of the commonwealth at their own costs.

50. The papers pertaining to the inquest shall be delivered, by the officer holding the same, to the clerk of the court having jurisdiction, who shall file the same; Ibid § 15. Disposition of papers of inquest. and, at the next term of the court, a committee shall be appointed by the court, as though the inquest had been holden in term time, and such other orders made and taken as may be necessary to execute the provisions of this chapter. Whenever it shall be suggested to the court, by affidavit, that a person found of unsound mind has been restored to his proper senses, or that the inquest was false or fraudulent, the court shall forthwith direct the facts to be inquired into by a jury, in open court, and make all necessary orders or decrees in the premises.

51. When a person shall be found a lunatic under the provisions of this chapter, the officer who presides at the inquest shall endeavor to ascertain and draw up a brief history of the patient's case, embracing the following points: Ibid § 16. Judge to prepare history of case.

(1) Age; occupation; married or single; habits; educated or not.

(2) If any, what relations have been insane.

(3) Date of first attack; how exhibited; has it changed in character ever any at a former period.

(4) Supposed cause; any peculiar illusion; and what; subject to fits, how long, and from what cause; natural temper and kind of affection towards relations.

(5) Any attempt at suicide; if any, in what violence or propensity to mischief exhibited.

(6) Periodic frenzy and lucid intervals, and duration of each.

(7) What restraint has been imposed; what treatment used; and if bleeding, to what extent.

(8) Any injury about the head ever received; any bodily disease from suppression of evacuations, eruptions, sores, or injuries.

(9) Together with whatever else may be deemed material towards enabling the superintendent of the asylum to understand the case.

Which statement or a copy, shall be sent with the record to the asylum, if the lunatic is sent.

52. Neither the county nor any relative of a lunatic shall be chargeable with the cost of his detention for one year in the asylum, if he be delivered there within six months after the first attack of his lunacy; nor shall a relative, in such case, be chargeable with the cost of his transportation.*

Ibid § 17.
Costs when
lunatic is sent
to asylum
within first
six months.

53. The court shall ascertain and certify as part of the order for the confinement of a lunatic in the asylum, the date of his first attack of lunacy, when it is intended to obtain the benefit of the above provision; but before it is allowed, the fact shall also be ascertained, upon proper proof, and certified by the circuit judge of the district.

Ibid § 18.
Date of first
attack to be
certified.

54. If the certificate of the circuit judge cannot be obtained until after the commitment, the treasurer of the asylum shall, upon its production, refund the cost of transportation to any relative paying the same.

Ibid § 19.
When the
judge's certi-
ficate cannot
be obtained.

55. The officer carrying a pauper lunatic or idiot, to either asylum or the feeble-minded institute, shall be paid by the treasurer thereof [six cents] per mile for himself and each guard, going and returning, besides tolls and ferriages, and the same for the lunatic in going and in returning, if the person has been denied admittance or not received for want of room. But there shall be no charge for more than two guards, and only for one unless the officer ordering such person to the asylum authorizes two. If transportation, in whole, or in part could have been had by stage, steamboat or railway for less cost, no more than what ought to have been the actual cost shall be allowed.†

Ibid § 20.
Allowance for
transporta-
tion.

56. No officer shall be allowed for carrying an insane person who is a pauper to a lunatic asylum, unless he first apply by letter to the superintendent thereof, and ascertain that the patient can be received, and that

Ibid § 21.
No allowance
to be made un-
less applica-
tion first made

* See pl. 17 supra.

† Amended by act of 1876; see pl. 25 and 33 supra.

he cannot be sent for by the officers of the asylum. But where the safety of the lunatic or others seem to require it, the court may order the patient to be carried to the asylum immediately, without his being sent for.*

to superintendent.

57. The superintendent, immediately upon notice that a person has been ordered into confinement at the asylum, shall cause him to be brought, and pay the expenses of transportation.

Ibid § 22. Superintendent to cause patients to be brought to the asylum.

58. Whoever shall bring or cause to be brought into any county or city of this commonwealth, from another state or county, any pauper idiot or lunatic, with the intent to make him a charge upon such county or city, or this commonwealth, shall be fined one hundred dollars, besides being liable at the suit of the county or city for all damages incurred thereby, besides the cost of transportation, and imprisoned not more than three months.

Ibid § 23. Penalty of introducing pauper idiots or lunatics fraudulently.

59. No person not otherwise insane shall be sent to an asylum merely because he is subject to epileptic fits, or thereby rendered helpless.

Ibid § 24. Epileptic fits.

60. If the estate of a lunatic, or person adjudged to be incapable of managing his estate, be not sufficient to pay his debts, the same may, by a circuit or chancery court, be ordered to be sold, and proceeds distributed and estate settled as prescribed by law for the settlement of the estate of insolvent decedents.

Ibid § 25. Court may order sale of estate of a lunatic or imbecile.

61. If the court shall be of opinion that there are reasonable grounds to believe that the defendant is insane, all proceedings in the trial shall be postponed until a jury be empaneled to inquire whether defendant is of unsound mind, and if the jury find that he is of unsound mind, the court shall direct that he be kept in prison or conveyed by the sheriff to the nearest lunatic asylum, and there kept in custody by the officers thereof until he be restored, when he shall be returned to the sheriff on demand, to be reconveyed by him to the jail of the county.

Ballitt's Criminal Code, 1876, § 136. How question of defendant's sanity tried.

62. If the defense be the insanity of the defendant, the jury must be instructed, if they acquit him on that ground, to state the fact in their verdict, and there-

§ 268. Proceedings if defendant acquitted on

* Amended by act of 1876; see pl. 25 and 33 supra.

the ground of insanity. upon if the court, after hearing any testimony offered by the commonwealth or the defendant, be satisfied that he is insane at the time the verdict is rendered, it may order him to be taken to a lunatic asylum.

63. He may show for cause against the judgment any sufficient ground for a new trial, or for arrest of judgment; he may also show that he is insane. If the court be of opinion that there is reasonable ground for believing he is insane, the question of his insanity shall be determined by a jury of twelve qualified jurors, to be summoned and empaneled as directed by the court. If the jury do not find him insane, judgment shall be pronounced. If they find him insane, he must be kept in confinement, either in the county jail or lunatic asylum, until, in the opinion of the court, he become sane, when judgment shall be pronounced.

64. If the sheriff be satisfied that there are reasonable grounds for believing that the defendant is insane he may summon a jury of twelve persons on the jury list, drawn by the clerk, who shall be sworn by the sheriff well and truly to inquire into the insanity of the defendant, and a true inquisition return; they shall examine the defendant and hear any evidence that may be presented; and by a written inquisition, signed by each of them, find as to the insanity. Unless the inquisition find the defendant insane, the sheriff shall not suspend the execution; but if the inquisition find the defendant insane he shall suspend the execution, and immediately transmit the inquisition to the governor.

§ 287.

What causes defendant may show why judgment should not be pronounced.

§ 288.

How sheriff to proceed if there are grounds to believe that defendant is insane.

LOUISIANA.

GOVERNMENT OF ASYLUMS.

1. Establishment of asylum, title.
2. Board of administrators; appointment, term of office, inspection.
3. Quorum, president pro tem.
4. Rules and regulations; contracts, administrators not to be interested in; corporate powers.
5. Superintendent and subordinate officers, appointment, term of office, salaries.
6. Inspection of asylums, weekly; accounts of receipts and expenditures, statistics, and reports.
7. Treasurer to act as secretary, powers and duties, salary.
8. Vacancies, when occurring, how filled; special meetings.
9. Unlawful entry on premises, or annoyance; penalties for.
10. Abduction from asylum, penalty.
11. Contracts, how awarded.
12. Illegal contracts not binding.
13. Exemption from taxation.

ADMISSION AND DISCHARGE.

14. Arrest and examination, commitment, expenses borne by parish.
15. Private patients, regulations for admission.
16. Private patients, charges for.
17. Investigation of indigence, certificate of judge.

CRIMINAL INSANE.

18. Convict feigning insanity or restored to reason, examination.
19. Recommitment to custody, fees.
20. Upon acquittal on ground of insanity to be committed to asylum.
21. When not indicted, fact of insanity to be certified to court.
22. Fact of insanity to be found in verdict of acquittal.

1. There shall be established in the town of Jackson, parish of East Feliciana, an asylum for the insane, to be called the "Insane Asylum of the State of Louisiana." R. S. of 1876, § 1760. Asylum created.

2. The governor of the state shall, by and with the advice and consent of the senate, appoint six persons, who shall constitute a board of administrators of the state hospital for the insane, one of whom shall be elected president by the members of the board. The board shall remain in office four years, and they shall continue to exercise the duties of their office until their successors are qualified, and shall be removed and vacancies filled by the same power and in the same manner as provided for in their appointment. Members to compose the board shall be selected as follows: One from the parish of East Feliciana, one from the parish of West Feliciana, and four § 1761. Board of administrators appointed by the governor for the term of four years. Vacancies how filled.

from the parish of Orleans. The members selected from the parishes of East Feliciana and West Feliciana shall constitute an executive committee, who shall visit the institution at frequent stated intervals, not less than semi-monthly, and report its condition and management to the president of the board.*

3. The president and any three of the members shall form a quorum, and in the absence of the president any four of said members shall choose one from among themselves to act as president pro tem., and the board shall meet as often as the president may deem necessary or the condition of the institution may require. Vacancies in the board shall be filled in the same manner as hereinbefore prescribed.

§ 1762.

What shall form a quorum.

4. The board shall have power to make all rules and regulations for their own government, not contrary to law; to make all necessary contracts; *provided, however,* that no member of said board shall in any manner be connected with the taking of such contracts, and they shall further have the right to accept any donation or legacy in the name of the asylum and for its use, to sue and be sued, plead and be impleaded, in all actions appertaining to the asylum.

§ 1763.

Powers of the board of administrators.

5. The board shall elect the superintendent, who shall be the chief physician and the executive officer of the institution, and shall with his family reside on the premises, and is forbidden to practice his profession beyond its limits. He shall serve during good behavior, and can be removed only by the board of administrators for cause. The superintendent shall name to the board suitable persons to act as assistant physician or physicians, where more than one is required; steward and matron, who shall be removed by the board on the recommendation of the superintendent. The salaries of all the above mentioned officers shall be determined by the board.

§ 1764.

Officers to be elected by the board of administrators.

6. At every regular meeting, the board shall appoint two of its members, whose duty it shall be to visit said asylum at least once a week, for the purpose of ascer-

§ 1765.

Committee to be appointed

* Placita 2, 3 and 5 are amended by act of 1874, No. 50, which does not appear in the code.

taining the manner in which the regulations are complied with, and at each monthly meeting to report the condition of the asylum.

by the board,
and its duties.

The board shall furnish the legislature, on the second Monday of each session, a detailed statement of the annual receipts and expenditures of said asylum; a statement of the names of the insane persons in the asylum; of the number and names of those admitted; of those deceased, and of those cured and discharged during the current year.

Report to be
made annu-
ally by the
board to the
general as-
sembly.

7. The board shall elect annually a treasurer, who shall be *ex-officio* secretary, and who shall not be a member of the board, and who shall give bond and security for the faithful performance of his duty, to be approved by the majority of said board. It shall be his duty to collect all debts due to said asylum; to receive quarterly upon the warrant of the president, whatever appropriations may be made by the state for its benefit; to take care and keep an exact account of the property, credit and revenues, and to make all necessary payments under such rules and regulations and restrictions as may be established by the board. Said treasurer and secretary, elected by the board, shall receive, as an annual salary for his services, the sum of six hundred dollars paid quarterly on the warrant of the president, out of the funds annually appropriated by the state.

§ 1766.
Treasurer to
be annually
elected, not to
be a member
of the board;
his bond and
his duties.

8. The seat of any member who shall absent himself without sufficient cause from the regular meetings, shall be vacated by a majority of said board, and the vacancy shall be immediately filled in the manner heretofore provided for. In the absence of the president, a majority of the members shall have power to call a meeting of the board whenever the necessities of the asylum may require it.

§ 1767.
When the
seat of a mem-
ber may be de-
clared vacant.
Vacancy,
how filled.

9. If any person shall, without permission, enter any of the buildings or inclosures appropriated to the use of the patients, or shall make any attempt to do so, or shall enter anywhere upon the premises belonging to said asylum, and commit or attempt to commit any trespass or depredation thereon, or if he shall either from within or without the inclosure, annoy or

§ 1772.
Persons en-
tering any of
the buildings,
inclosures,
etc., of the
asylum, how
punished.

disturb the quiet of any patient confined therein, upon conviction thereof before the mayor or any justice of the peace in the town of Jackson, he shall be condemned to pay a fine not less than five nor more than one hundred dollars for the use of said asylum, subject to appeal to the district court as in other cases. And the district court shall have concurrent jurisdiction over the offending party, and, in pronouncing judgment, may impose a fine and imprisonment in the parish jail for a term not less than ten nor more than thirty days, or both, at the discretion of the court.

10. If any person shall abduct or seduce any patient to clope or escape from said asylum, or shall attempt to do so, or shall aid or assist therein, every such person shall, upon conviction thereof, be condemned to pay a fine of not less than fifty dollars, nor more than five hundred dollars, for the use of said asylum, and at the discretion of the court be imprisoned in the parish jail not less than one month nor more than six months, or both, at the discretion of the court.

11. In all contracts for work, to be let out by the board of administrators, the said board shall cause specifications to be made of the work to be done, and shall advertise the same for one month previous to the letting out of the contract, in a newspaper published in the parish of East Feliciana, and by notice posted up in the town of Jackson during the same time; and the parties wishing to bid for such contract shall be required to make their bids by sealed proposals, which shall be opened at a public meeting of the board by the president, on a day previously fixed, and the contract shall be awarded to the lowest solvent bidder, who shall give bond and security for the faithful execution of the same according to the published specifications.

12. Hereafter the board of administrators, or any officer of the asylum, shall have no power to contract any debt, borrow money, issue drafts, or make any contract, or incur any liability connected with the administration of said asylum beyond the amount appropriated by the legislature and the revenue of the institution for such purposes; and no such contract, debt, or liability thus incurred, by any of said officers, shall be binding on the state, nor shall the state, in any manner, be liable for the same.

Jurisdiction
of the district
court.

§ 1773.
Persons ab-
ducting any
patient to es-
cape from the
asylum, how
punished.

§ 1774.
Letting out
contracts.

§ 1775.
No contract to
be entered
into beyond
the appropria-
tion of the
legislature.

13. The following property shall be exempt from taxation, and no other, viz.: all public property * * * * all charitable institutions. * * *

Constitution
of Louisiana,
1879, art. 207.

14. Whenever it shall be made known to the judge of the district or parish court by the petition and oath of any individual that any lunatic or insane person within his district ought to be sent to or confined in the insane asylum of this state, it shall be the duty of the said district or parish judge to issue a warrant to bring before him, in chambers, said lunatic or insane person, and after proper inquiry into all the facts and circumstances of the case; if, in his opinion he ought to be sent to or confined in, said insane asylum, he shall make out his warrant to the sheriff of the parish, commanding him to convey the lunatic or insane person to the insane asylum, for which duty the sheriff shall have the right to demand the same fees as are now allowed by law for the conveyance of convicts to the penitentiary of the state, which shall be paid out of the parish treasury, upon the order of the district or parish judge, and likewise all other expenses previously incurred in bringing said insane person before the district or parish judge.

§ 1768.
Lunatics,
how ad-
mitted.
Warrant.

Duty of the
district
judges.

Duty of the
sheriffs.

Compensa-
tion to
sheriffs.

15. The board of administrators shall have authority to receive insane persons, not sent to the asylum by a district or parish judge, on such terms and conditions as they may deem fit to adopt; and money so received shall be applied to the support of the institution.

§ 1769.
Powers of the
board to re-
ceive lunatics
in certain
cases.

16. All persons received in the asylum as insane, shall be charged at a rate not less than ten dollars a month, unless the police jury of the parish from whence the insane person came, a municipal council, if from a city or town, or clerk of the court, shall certify that said person is in indigent circumstances.

§ 1770.
Charges.

17. Whenever application is made to the clerk for a certificate as above stated, it shall be his duty to examine, under oath, such witnesses as may be brought before him, and to give or refuse said certificate, as the case may in justice require; and the said clerk is empowered, whenever he shall deem the same necessary, to summon before him,

§ 1771.
Duties of
clerks of dis-
trict courts.

as in ordinary cases, any witness necessary, and said certificate so given shall entitle the person therein named to admission into the lunatic asylum without charge.

18. The physician of the asylum shall professionally examine the lunatic or insane person sent to the asylum by the authority of the district or parish judge, and if, in his opinion, said person is only feigning insanity, being a person charged with a felonious crime, he shall report it to the board, who shall investigate the facts, and if, in the judgment of the majority, said person should not be admitted as an inmate of the asylum, the president of said board shall cause such person feigning insanity, and who had been previously committed to prison for a crime, to be confined in the parish jail, and shall immediately inform the president of the police jury of the parish, or the proper authority in the parish of Orleans, where the rejected person has his domicile, of the fact, and the reason of his rejection, and the provisions of this section shall also apply to such persons charged with a crime, who afterwards recover and become sane, in said asylum.

19. The sheriff of East Feliciana, or his deputy, shall, within reasonable delay, convey said person feigning insanity, to the parish of his domicile, for which duty the sheriff shall have the right to demand the same fees which are now allowed by law for the conveyance of convicts to the penitentiary of the state, which shall be paid out of the parish treasury, on the order of the president of the police jury of the parish of the domicile of the person rejected by the board of administrators, or the proper authority in the parish of Orleans.

20. Whenever any person, arrested to answer for any crime or misdemeanor, before any court of this state, shall be acquitted thereof by the jury, or shall not be indicted by the grand jury, by reason of the insanity or mental derangement of such person, and the discharge and going at large of such person shall be deemed, by the court, to be dangerous to the safety of the citizens or to the peace of the state, the court is authorized and empowered to commit such person to the state insane hospital, or any similar institution in any parish within the jurisdiction of the court,

§ 1776.
Duty of physician.

Disposal of persons charged with a crime and feigning insanity.

§ 1777.
He shall be conveyed to the parish of his domicile.

§ 1778.
Courts to send insane persons to the lunatic asylum in certain cases.

there to be detained until he be restored to his right mind, or otherwise delivered by due course of law.

21. Whenever the grand jury, upon any inquiry which they make as to the commission of any crime or misdemeanor, by any person, shall omit to find a bill for the causes aforesaid, it shall be the duty of such jury to certify the same to the court.

§ 1779.
Grand juries
to inform the
court when
bills not
found on ac-
count of in-
sanity.

22. Whenever the jury, upon the general issue of not guilty, shall acquit any person for the cause aforesaid, it shall be their duty, in giving their verdict of not guilty, to state that it was for such cause.

§ 1780.
Juries acquit-
ting on ac-
count of in-
sanity so to
state in their
verdict.

MAINE.

GOVERNMENT OF ASYLUM.

1. Government vested in board of trustees; one to be a woman; appointment; term of office.
2. Superintendent; steward; matron; appointment, term of office.
3. Treasurer and steward; accounts.
4. Trustees, powers and duties.
5. Monthly inspection by trustees; reports of, compensation.
6. Annual meeting; statistics.
7. Superintendent; qualifications; powers and duties; reports.
8. Apportionment of patients.
9. Steward to be treasurer; bond and security, powers and duties.
10. Salaries of officers.
11. Rules for government of attendants to be posted in asylum.
12. Injury to patients; discharge of attendants; penalties.
13. Erection of additional asylum.

INSPECTION OF ASYLUM.

14. Inspection by committee of council.
15. Injury to patients, investigation by committee; trial and penalties.
16. Inquest of death.
17. Illegal detention; investigation of by committee; trial of, discharge.
18. Names and address of committee to be posted in asylum, writing material supplied to patients; collection of letters.
19. Letters forwarded by committee delivered to patients.
20. Monthly inspection, at irregular intervals.
21. Reports of visiting committee, compensation.
22. Neglect of duties, penalties for.

ADMISSION AND DISCHARGE.

23. Definition of insanity.
24. Private patients committed without examination.

25. Examination; commitment; certificate and records.
26. Physicians' certificate, personal examination.
27. Appeal, hearing, time and place.
28. Renewal of appeal on neglect of justices.
29. Records of justices, compensation.
30. Commitment; expenses of.
31. Expenses of, by whom borne.
32. Guardian to be appointed.
33. Discharge of patient not committed during term of court.
34. Illegal commitment, proceedings; idiots and incurables, discharge.
35. Support of indigent insane.
36. Illegal detention, investigation by town officers, costs.
37. Support and removal, expenses of.
38. Reimbursement of towns.
39. Restored patients, by whom removed.
40. Discharge, notice of, removal, expenses of.
41. Towns exempt from foregoing provisions.

CRIMINAL INSANE.

42. Temporary confinement in asylum of person indicted for crime.
43. Not indicted or acquitted, fact to be certified; commitment to asylum; discharge by court on recovery; recommitment on relapse.
44. Discharge on recovery, or to custody of friends; recommitment.
45. Support, expenses of, by whom borne.
46. Insane convicts, examination, transfer to asylum; on recovery before expiration of sentence, remanded to custody.
47. Incurable convicts transferred from asylum to prison hospital.

1. The government of the Maine insane hospital is vested in a committee of six trustees, one of whom shall be a woman, appointed by the governor, with the advice of the council, and commissioners to hold their offices during the pleasure of the governor and council, but not more than three years under any one appointment.

Act of 1874, ch. 256, § 1, as amended 1880, ch. 184, § 1. Government of the Maine insane hospital vested in six trustees.

2. The said trustees shall appoint a superintendent, and a steward and treasurer, subject to the approval of and to hold office during the pleasure of the governor and council, and all other officers necessary for the efficient and economical management of the business of the institution; all appointments shall be made according to the by-laws.

Ibid § 2 as amended 1879, ch. 150, § 11. Superintendent, steward and treasurer, how appointed.

3. The trustees at their next meeting after the expiration of each quarter, shall examine carefully the books and vouchers of the steward and treasurer, and audit his accounts, and submit the same immediately thereafter to the governor and council for their approval, before such accounts shall be settled; and the governor and council are authorized and required, from time to time, to inquire into the condition and management of the financial affairs of the institution, and to make such changes as they shall deem judicious, in the mode and amount of expenditures and the general administration of its financial affairs.

Ibid § 3. Accounts of steward and treasurer, how audited and settled.

Governor and council required to inquire into the financial affairs of institution.

4. They shall have the general care and management of the institution; see that it is conducted according to law and the by-laws for its internal government and economy, which they are hereby authorized to establish, not inconsistent with the laws of the state; hold in trust for the state any land, money, or other property, granted, bequeathed, or given, to the institution, and apply the same for the support, comfort, or improvement of the insane, and the general use of the institution, and have power to bring actions, in the name of the treasurer, for all dues to the institution, and to defend all suits brought against it.

R. S. of 1871, ch. 143, § 2. Trustees have the general management, hold property, make by-laws, commence and defend suits.

5. There shall be a thorough examination of the hospital monthly by two of the trustees; quarterly by three; and annually by a majority of the full board; and

Ibid § 4. Examinations and records of them; pay of

officers and trustees; may examine and discharge patients. at any other time, when they deem it necessary, or the superintendent requests it. At each visit, a written account of the state of the institution shall be drawn up by the visitors, recorded, and presented at the annual meeting of the trustees; at which meeting they, with the superintendent, shall make a particular examination into the condition of each patient, and discharge any one so far restored that his comfort and safety, and that of the public, no longer require his confinement. They shall receive two dollars a day for such visits, and the same sum for every twenty miles travel. Their accounts shall be audited by the governor and council, and they shall draw their warrant, on the treasurer of state, for the amount due them and the other officers of the institution, except attendants on the patients and laborers on the premises, and for all money appropriated by the legislature for the insane hospital.

Ibid § 6.
Annual meetings and reports to the governor and council. 6. They shall hold an annual meeting on the first day of December, at which there shall be made a full and detailed report, containing a particular statement of the condition, concerns, and wants of the hospital; and this report, and the reports of the superintendent and steward, shall be made up to the first day of December, and laid before the governor and council at that time, for the use of the government.

Ibid § 7,
as amended
1873, ch. 161,
§ 1.
Duties of the
supt. 7. The superintendent shall be a physician; reside constantly at the hospital; have the general superintendence of the hospital and grounds; receive all patients legally sent to the hospital, unless the number exceeds its accommodations, and have charge of them, and the direction of all persons therein, subject to the regulations of the board of trustees; and annually, on the last day of November, report to the trustees the condition and prospects of the institution, with such remarks and suggestions relative to its management and the general subject of insanity, as he thinks will promote the cause of science and humanity.

Ibid § 8.
Apportionment of patients. 8. He shall apportion the number of patients, who can be accommodated in the hospital, among the towns, according to their population by the last census; and when the applications for admission exceed or are liable to exceed that number of patients, he shall give

preference to those from towns that have not their full proportion of patients in the hospital, and may reject others.

9. The steward shall be treasurer; give bond to the trustees, in such amount and with such sureties as they deem sufficient, for the safe keeping and proper disbursement of the funds of the institution; under the advice and direction of the superintendent and of the trustees, make all necessary purchases of supplies and provisions; hire attendants and other laborers; see to the proper cultivation of the farm and grounds; have a careful oversight of the patients when employed thereon; perform such other duties as the trustees direct; and annually make a detailed report to them of his receipts and expenditures, and of the financial affairs of the institution.

Ibid § 10.
Duties of the
steward.

10. The compensation of the superintendent of the insane hospital shall be thirteen hundred dollars per annum; two assistant superintendents, eight hundred and fifty dollars each per annum; one steward, who shall also perform the duties of treasurer, nine hundred dollars per annum, in full for all services; chaplain, two hundred dollars per annum; matron, three hundred and fifty dollars per annum.

Act of 1879,
ch. 160, § 11.
Compensation
of officers.

11. The superintendent shall keep posted, in conspicuous places about said hospital, printed cards containing the rules prescribed for the government of the attendants in charge of the patients.

Ch. 149, § 27.
Rules and
regulations
to be kept
posted.

12. When it appears that any such attendant treats any patient with injustice or inhumanity, he shall be immediately discharged. When the superintendent is satisfied that any attendant intentionally abuses or ill treats any inmate of the hospital, he shall discharge him at once, and make complaint of such abuse or ill treatment before any court having jurisdiction of the offenses charged; and such attendant, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred, nor more than five hundred dollars, or to imprisonment in the county jail not more than ninety days.

Ibid § 28.
Intentional
ill-treatment
of patients,
how punished.

13. The trustees of the Maine insane hospital are hereby authorized to erect a suitable building or buildings for the accommodation of especially sick patients,

Act of 1879,
ch. 136, p. 104.
Buildings for

those especially sick provided. also for the better classification of patients at some point on the hospital premises; *provided*, the means for the purpose can be drawn from the current income of the hospital. The cost of said building not to exceed the sum of nine thousand dollars.

14. A committee of the council consisting of two with whom shall be associated one woman shall be appointed by the governor annually who shall visit the hospital at their discretion to ascertain if the inmates thereof are humanely treated and they shall make prompt report from time to time, of every instance of intentional abuse or ill treatment, to the trustees and superintendent of the hospital who shall take notice thereof, and cause the offender to be punished as required by section twenty-eight,* chapter one hundred and forty-three of the revised statutes.

15. If any wilful injury shall be inflicted by any officer, attendant or employe of the hospital, upon the person of any patient therein, and knowledge thereof shall come to the said committee of visitors, they shall report the fact immediately to the said trustees and superintendent, and if the superintendent fails forthwith to complain thereof as required by the statute aforesaid, one of the said visitors shall enter a complaint thereof before the court having jurisdiction of such offense, and on conviction the offender shall be punished as provided by law. And in all trials for such offenses, the statement of any patient cognizant thereof, shall be taken and considered for what it may be worth; and no one connected with the hospital shall be allowed to sit upon the jury which shall try the case.

16. In case of the sudden death of any patient in the hospital, under circumstances of reasonable suspicion as to the innocent cause thereof, a coroner's inquest shall be held as provided by law in other cases, and the committee of visitors shall cause a coroner to be immediately notified for that purpose.

17. If the committee of visitors shall become satisfied that any inmate of the hospital has been unnecessarily

* Pl. 12.

and wrongfully committed, or is unnecessarily detained and held as a patient therein, they shall apply to any judge of the supreme judicial court, or judge of probate within the county where the restraint exists, for a writ of habeas corpus, who shall issue the same, and cause said inmate to be brought before him, and after notice to the party procuring his commitment and a hearing of all interested in the question at issue, if satisfied that such inmate is not a proper subject for custody and treatment in the hospital, shall discharge such inmate from the hospital, and restore him to his liberty. But this section shall not apply to the case of any person charged with, or convicted of crime and duly committed to the hospital by order of court.

be discharged when unnecessarily detained.

Exception.

18. The names of the committee of visitors and their post office address shall be kept posted in every ward of the hospital, and every inmate shall be allowed to write when and whatever he may please to them or either of them, unless otherwise ordered by a majority of the committee, in writing, which order shall continue in force until countermanded by said committee in writing. And, for this purpose, every patient, if not otherwise ordered as aforesaid, shall be furnished by the superintendent, on request, with suitable materials for writing, enclosing and sealing letters. And the superintendent shall provide at the expense of the state, securely locked letter boxes, easily accessible to all the inmates, to be placed in the hospital, into which such letters can be dropped by the writer thereof. No officer, attendant, or employe of the hospital shall be allowed to have the means of reaching the contents of these boxes, but the letters in them shall be collected weekly by some member of the committee, or by such person as the committee may authorize for the purpose, who shall prepay such only as shall be addressed to some one of the committee, and deposit them in the post office without delay.

Ibid § 9. Names of visiting committee to be posted in the wards.

Inmates allowed to write to committee.

Letter boxes to be provided.

Officers and attendants not to have access to.

19. It is hereby made the duty of the superintendent, or party having charge of any person confined on account of insanity, to deliver to said person any letter or writing to him or her directed, without opening or reading the same, provided this letter

Ibid § 10. Letters from committee to be delivered to patients without opening.

has been forwarded by the committee, or is directed to such individuals as the committee have authorized to send or to receive letters without the committee's inspection.

20. The hospital shall be visited as often as once in every month by at least one member of the committee, and this visit shall be made at irregular, and not at stated periods; no previous notice, information, or intimation thereof shall be given or allowed to the superintendent, or any officer, attendant or employe of the hospital, but as far as possible, all their visits shall be made unexpectedly to the superintendent and all others having the care of the hospital and its inmates; and in no case shall the committee be accompanied by any officer or employe of the hospital, when making their visits through the wards, except upon special request of some one of the committee.

Ibid § 11.
Hospital
when and
how visited
by committee

21. The committee of visitors shall make report to the governor and council on the first day of December, annually, and as much oftener as the welfare of the patients or the public good may require, setting forth their doings and any facts with regard to the hospital which they may deem important to be laid before the public. The compensation of said committee shall be two dollars each per day, for the time actually spent in visiting the hospital and actual traveling expenses;

Ibid § 12.
Committee of
visitors shall
report to
governor and
council in
December
annually.

Compensation.

Provided, the said committee do not receive compensation as councillors, for the same days in which said official visits are made to said hospital; and their accounts, including a reasonable sum for the letter carrier, provided for in section nine, shall be audited by the governor and council, who shall draw their warrant on the treasurer of the state for the amount found due.

Accounts, how
audited.

22. Any person neglecting to perform the duties imposed upon him by the provisions of this act shall be removable from office by the authority from whom he received his appointment, and if removed, shall be ineligible for office or place in the hospital in future.

Ibid § 13.
Removal from
office for non-
performance
of duties.

23. The following rules are to be observed in the construction of statutes, unless such construction is inconsistent with the plain meaning of the enactment. * * * *

Ch. 1, § 4.
Definition.

VIII. The words "insane person" may include an idiotic, non-compos, lunatic, or distracted person.

24. Parents and guardians of insane minors, if of sufficient ability to support them there, within thirty days after an attack of insanity, without any legal examination, shall send them to the hospital, and give to the treasurer thereof the bond required; or to some other hospital for the insane.

Ch. 143, § 11.
Duties of
parents and
guardians
of insane
minors.

25. All insane persons, not thus sent to any hospital, shall be subject to examination as hereinafter provided. The municipal officers of towns shall constitute a board of examiners, and, on complaint in writing of any relative or justice of the peace of their town, they shall immediately inquire into the condition of any insane person therein; call before them all testimony necessary for a full understanding of the case; and if they think such person is insane, and that his comfort and safety, or that of others interested, will thereby be promoted, they shall forthwith send him to the hospital, with a certificate, stating the fact of his insanity, and the town in which he resided or was found at the time of examination, and directing the superintendent to receive and detain him till he is restored or discharged by law, or by the superintendent and trustees. And they shall keep a record of their doings, and furnish a copy to any interested person requesting and paying for it.

Ibid § 12.
Municipal
officers to de-
cide in cases
and commit to
hospital with
certificate;
keep a record
of doings.

26. In all cases of preliminary proceedings for the commitment of any person to the hospital, the evidence and certificate of at least two respectable physicians, based upon due inquiry and personal examination of the person to whom insanity is imputed, shall be required to establish the fact of insanity, and a certified copy of the physicians' certificate shall accompany the person to be committed.

Act of 1874,
ch. 256, § 7,
as amended
1876, ch. 117.
Preliminary
commitment,
evidence re-
quired of
insanity.
Certificate.

27. Any person or corporation, deeming himself or the insane aggrieved by the decision of the board of examiners for or against the insanity, may appeal therefrom by claiming the appeal within five days after the decision is made known, naming a justice of the peace and quorum on his part, and appointing a time within three days thereafter, and a place in such town or an adjoining town for the hearing, and he shall procure the attendance of such justice at such time and place, if in his

Ch. 143, § 14.
Appeal to two
justices of the
peace and
quorum, how
selected; time
and place.

power, if not, he may select another; the board of examiners shall select another justice of the peace and quorum.

28. If the two justices neglect or refuse to decide the appeal within three days after the time appointed for the hearing; or if the municipal officers neglect or refuse for three days after complaint is made to them to examine and decide any case of insanity in their town, complaint may be made by any relative of the insane, or any other respectable person to two justices of the peace and quorum; and the two justices, selected in either of the above modes, may call before them any proper testimony, and hear and decide the case. If they find the person insane, and that he will be more comfortable and safe to himself or others, they shall give a certificate for his commitment to the hospital like that described in section 12.*

29. Such justices shall keep a record of their doings and furnish a copy thereof to any person interested requesting and paying for it; those deciding an appeal shall be entitled to receive for their services two dollars a day and ten cents a mile for their travel, and shall determine which party shall pay it; those deciding an original case shall charge the same fees as for a criminal examination, to be paid by the person or corporation liable in the first instance for the support of the insane in the hospital.

30. When such justices order a commitment to the hospital, the municipal officers of the town where the insane resides, or such other person as the justices direct, shall cause such order to be complied with forthwith at the expense of the town; and after such commitment is made, the justices shall decide and certify the expenses thereof.

31. The certificate of commitment to the hospital, after a legal examination, shall be sufficient evidence, in the first instance, to charge the town, where the insane resided, or was found at the time of his arrest, for the expenses of his examination, commitment, and support in the hospital; but when his friends or others file a bond with the treasurer of the hospital, such town shall not be liable for his support, unless new action is had by reason

Ibid § 15.
Municipal
officers or jus-
tices neglect-
ing to decide
for three days,
proceedings.

Ibid § 16.
Justices to
keep a record
of doings,
their compen-
sation, and by
whom paid.

Ibid § 17.
Their order for
commitment,
by whom paid.

Ibid § 18.
Towns where
insane person
resides or was
found, pay for
support, un-
less a bond
given for it.

* Pl. 25.

of the inability of the patient or his friends longer to support him; and such action may be had in the same manner, and before the same tribunal, as if he had never been admitted to the hospital.

32. When any man or unmarried woman, of twenty-one years of age, is sent to the hospital for insanity under any of the provisions of this chapter, the municipal officers, of the town where such insane resides, may apply to the judge of probate for the same county for the appointment of a guardian, when they think it for the interest of the insane and to prevent waste of

Ibid § 23.
Judge of probate may appoint guardians for persons sent to hospital; their duties, compensation and bond.

his property, and the judge, on their certificate to that effect, without notice to the insane, shall forthwith appoint some suitable guardian of the same county, who shall give bond as in other cases, and have reasonable compensation for his services, to be allowed by the judge and paid out of the estate; but shall not be required to return any inventory, or exercise any other powers or duties of guardian for one year after his appointment, except to provide for the support of the insane and his family, and prevent waste of his property.

33. Every person committed to the insane hospital by any court, as provided in section 1 of chapter 137, shall be discharged by the superintendent, if not sent for by the court during the next term thereof after his commitment, but shall be liable to re-commitment by the municipal officers of the town to which he belongs, if found to be insane, to be supported in the same manner as other persons committed by said officers.

Ibid § 26.
Persons committed when to be discharged. May be re-committed by municipal officers.

34. When any person appears to have been unlawfully committed, the superintendent shall report the case to the trustees at their next monthly meeting; and they may cause the removal of such person to the town from which he was committed. The superintendent, at each monthly visit of the trustees, shall also report to them the name of any inmate who was idiotic at the date of his commitment, and of any inmate who has become so imbecile as, in his judgment, to be beyond cure, and if he thinks such inmate may be discharged with safety to himself and to the public, the trustees shall order his discharge

Ibid § 9,
as amended '74,
ch. 187, § 1.
Unlawful commitments; discharge of idiots

and cause him to be removed to the town by which he was committed.

35. The officers ordering the commitment of a person unable to pay for his support, may certify in writing to the trustees that fact, and that he has not relations liable and of sufficient ability to pay for it; and if the trustees are satisfied that such certificate is true, the treasurer of the hospital may charge to the state one dollar and fifty cents per week for his board, and deduct it from the charge made to the patient or town for his support.

Ibid § 13,
as amended
1873, ch. 151,
§ 2.
State aid to
indigent in-
sane persons;
weekly
charges.

36. When any friend, person, or town, liable for the support of any patient, who has been in the hospital six months, not committed by order of the supreme judicial court, nor afflicted with homicidal insanity, thinks he is unreasonably detained, he may apply to the municipal officers of the town where the insane resides, and they shall inquire into the case, and summon before them any proper testimony, and their decision and order shall be binding on the parties. They shall tax legal costs and decide who shall pay them. If such application is unsuccessful, it shall not be made again till the expiration of another six months.

Ibid § 21.
Those liable
for support
may apply for
discharge.

37. The person or town, liable for the support of a person when lawfully committed to the hospital, shall be liable therefor, and for the expense of his removal, when unlawfully committed and removed as provided in section 9;* but the expenses of such removal are not to exceed ten cents per mile from the hospital to the place of commitment.

Ibid § 19.
Also, when
unlawfully
committed,
and expense
of removal,
limit of.

38. Any town thus made chargeable on the first instance and paying for the commitment and support of the insane at the hospital, may recover the amount paid of the insane, if able, or of persons legally liable for his support, or of the town where his legal settlement is, as if incurred for the expense of any pauper, but if he has no legal settlement in this state, such expenses shall be refunded by the state and the governor and council shall audit all such claims and draw their warrant on the treasurer therefor. No insane person

Ibid § 20,
as amended
1872,
ch. 54.
Towns have
remedy
against the
person, or
those liable
for his sup-
port as a
pauper.

* Pl. 17.

shall suffer any of the disabilities incident to pauperism, nor be hereafter deemed a pauper, by reason of such support. But the time during which the insane person is so supported shall not be included in the period of residence necessary to change his settlement.

39. When the overseers of any town, liable for the support of a patient at the hospital, are notified by mail by the superintendent, that he has recovered from his insanity, they shall cause him to be removed to their town; and if they neglect it for fifteen days, the superintendent shall cause it to be done at the expense of such town.

Ibid § 22.
Overseers of
poor to re-
move, when
notified so to
do.

40. When any patient is discharged from the hospital, by the trustees, under the provisions of section 4,* they shall cause the selectmen of the town, or the mayor of the city from which such patient was received, to be immediately notified by mail, and on receipt of such notice said town or city shall cause such patient to be forthwith removed thereto; and if they neglect such removal for thirty days thereafter, such patient may be removed to said town or city by the trustees, or their order; and the superintendent may maintain an action in his name, against such city or town, for the recovery of all expenses necessarily incurred in the removal of such patient.

Ibid § 23.
Persons dis-
charged un-
der § 4, how
removed;
town liable,
upon notice,
for costs of
removal.

41. The preceding sections shall not apply to towns having less than two hundred inhabitants, but all insane persons found, and having their residence in such towns, who have no settlement within any town of this state, and who have no means of their own for support, or are without relatives able and liable to support them, shall be supported in the hospital at the expense of the state.

Ibid § 24.
Towns of less
than two hun-
dred inhabi-
tants not li-
able for re-
moval, etc.

42. When any person is indicted for a criminal offense, or is committed to jail on a charge thereof by a trial justice or judge of a police or municipal court, any judge of the court before which he is to be tried, when a plea of insanity is made in court, or he is notified that it will be made, may, in vacation or term time,

Ch. 137 § 1.
Insane crim-
inals; when
committed to
jail; investi-
gation of lu-
sanity.

* Pl. 34.

order such person into the care of the superintendent of the insane hospital, to be detained and observed by him till the further order of the court, that the truth or falsity of the plea may be ascertained.

43. When the grand jury omits to find an indictment against any person arrested by legal process to answer for any offense by reason of his insanity, they shall certify that fact to the court; and when a traverse jury, for the same reason, acquits any person indicted, they shall state that fact to the court when they return their verdict; and the court, by a precept stating the fact of insanity, may commit him to the insane department of the state prison or to the insane hospital; and any person so committed to the insane department of the state prison shall be discharged by the court having jurisdiction of the case only on satisfactory proof that his discharge will not endanger the peace and safety of the community; and when on satisfactory proof such person so discharged from the insane department of the state prison is again found insane and dangerous, any judge of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane department of the state prison, or to the insane hospital.

44. Any person so committed to the insane hospital, may be discharged by any judge of the supreme judicial court, in term time or vacation, on satisfactory proof that his discharge will not endanger the peace and safety of the community; or the judge may, on application, commit him to the custody of any friend, who gives bond to the judge of probate for the county of Kennebec, with sufficient sureties, approved by said judge of probate, conditioned for the safe keeping of such insane person, and the payment of all damages which any person may sustain by his acts. And when, on satisfactory proof, he is again found insane, and dangerous, any judge of the supreme judicial court may, by a precept stating the fact of his insanity, recommit him to the insane hospital.

45. The person so committed shall be there supported at his own expense, if he has sufficient means; otherwise at the expense of the state.

Ibid § 2,
as amended
1879, ch. 160,
§ 1.
Grand jury
failing to find
indictment or
traverse jury
acquitting
shall so cer-
tify to the
court.

Powers of
court.

How such
person may be
discharged
from such
commitment.

Ibid § 3,
as amended
1879, ch. 160,
§ 2.
Person so
committed
may be dis-
charged or
entrusted to
friends.

Ibid § 4.
How support-
ed at hospital.

46. When an inmate of the state prison or county jail becomes insane, the warden or jailer shall notify the governor of the fact, and he, with advice of council, shall appoint a commission of two or more skilful physicians to investigate the case, and if such inmate is found insane by their examination, he shall be sent to the insane hospital until he becomes of sound mind; and if this takes place before the expiration of his sentence, he shall be returned to prison; but if after, he shall be discharged free. The expenses of the commission, removal, and support, shall be paid by the state.

Ibid § 5,
as amended
1877, ch. 188.
When an in-
mate of the
state prison
or county jail
becomes in-
sane, proceed-
ings.

47. The convicts insane now in the insane hospital upon satisfactory proof that the said persons insane are incurable, and that a longer residence therein will have a deleterious influence on the other patients of said hospital, may be removed by order of the governor and council to the insane department of the state prison.

Aet of 1879,
ch. 160, § 3.
Insane con-
victs in the
hospital being
incurable
may be re-
moved to the
insane de-
partment of
state prison.

MARYLAND.

GOVERNMENT OF ASYLUMS.

1. Board of managers, appointment, term of office.
2. Property vested in managers.
3. Government vested in managers.
4. Appointment of officers.
5. By-laws and regulations.
6. Inspection by managers.
7. Managers may hold property in trust.
8. Reports of managers and trustees.
9. Number of indigent insane allowed.
10. Number of private patients allowed.
11. Indigent insane, power of judges to commit.
12. Appropriation, annual.
13. Powers and duties of managers defined.

ADMISSION AND DISCHARGE.

14. Examination; jury trial; commitment; support, liability for.

15. Indigent insane transferred from almshouse, expenses borne by county; support, limit of liability.
16. Indigent insane, definition of.
17. Support, liability of establishment for; appointment of guardian.
18. Trustees of the poor to provide for support of indigent insane.

CRIMINAL INSANE.

19. Insane convicts transferred to asylum, expenses borne by state.
20. Fact of insanity found in verdict.
21. Commitment to asylum.
22. Examination and commitment before indictment.
23. Examination during vacation of court.
24. Foregoing provisions apply to all persons arrested.

1. The governor, by and with the advice and consent of the senate, shall appoint nine persons of undoubted character, and selected with a view to skill and efficiency, managers of the Maryland hospital for the insane, who shall serve without pay, and hold their offices as follows: three thereof shall hold their offices for two years; three thereof shall hold their offices for four years; and three thereof shall hold their offices for six years; and the governor shall designate their several terms at the time of their appointment; their successors shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold their offices for six years, and until others are appointed in their stead.

R. C. 1878.
art. 26, § 1.
Nine managers appointed by the governor; term of office.

2. The president and visitors of the Maryland hospital are hereby authorized and directed to transfer by deed all the real estate and other property belonging to said trust, which may be in their possession, to the managers of the Maryland hospital for the insane,

Ibid § 2.
Transfer of property of Maryland hospital to said managers.

above provided for, and the government of the state hospital for the insane shall be vested in the said board of managers, seven of whom shall constitute a quorum for the quorum. transaction of business.

3. The said board of managers shall have the general direction and control of all the property and concerns of ibid § 3. Powers of managers. the said hospital, and shall take charge of its general interests, and see that its great design be carried into effect, and everything done faithfully according to the requirements of the legislature, and the by-laws, rules, and regulations of the said hospital; but said board of managers shall have no authority or power to mortgage or pledge any of the property, real or personal, of said hospital.

4. The board of managers shall appoint one of its number, who shall act as treasurer, who shall give bond for ibid § 4. Appointments by managers. the faithful performance of his trust, in such sum and in such sureties as the comptroller of the state shall approve; they shall also appoint a superintendent, who shall be a well-educated physician, and in addition shall also appoint as many physicians, surgeons, apothecaries, stewards, matrons, nurses, and servants, and other officers for the administration and service of said hospital as they may deem necessary, all of whom shall hold their appointments at the pleasure of the board of managers.

5. The board of managers may make, ordain, alter, or amend, and abolish all by-laws, rules, and regulations for the administration and government of said hospital, and for the admission and discharge of ibid § 5. By-laws, rules, and regulations made by managers. persons therein and therefrom, which rules and regulations in so far as they are within the power of the said board, and are consistent with law, shall be binding on all persons whomsoever.

6. The said board of managers shall maintain an effective inspection of said hospital and grounds, and for ibid § 6. Visits of managers. this purpose one of said managers shall visit the same once in every week; two of said managers once in every month, a majority of the board once in every quarter, and the whole board once in every year, at the times and in the manner to be prescribed in the by-laws.

7. The said board of managers may take and hold in trust

Ibid § 7.
Empowered
to take and
hold
property. for the state, any grant or devise of land, or any donation or bequest of money, or other personal property, to be applied to the maintenance of insane persons, and the use of the Maryland hospital for the insane.

Ibid § 8.
Reports of
managers and
officers. 8. The board of managers shall annually, in the month of December, submit to the governor a report, showing the past year's operations, and actual state of the hospital and property in their charge, and at the same time transmit to the governor the annual report of the superintendent and treasurer, which shall show all receipts and expenditures of every officer and employe, and compensation of each; all of which reports shall be laid before the general assembly of Maryland during the first ten days of its session.

Ibid § 9.
Number of
insane
paupers to be
provided for. 9. The board of managers shall provide accommodation for at least two hundred and fifty pauper lunatics of this state, who may be sent to the said hospital for curative treatment, which number shall be from time to time apportioned by them among the several counties and the city of Baltimore according to their respective populations, as ascertained by the last preceding census.

Ibid § 10.
Number of
pay patients
allowed. 10. The said board of managers may receive into said hospital as pay patients insane persons, other than the pauper lunatics referred to in the last preceding section, to a number not exceeding seventy-five at any one time.

Ibid § 11.
Who empow-
ered to send
insane pau-
pers to the
hospital. 11. The judges of the circuit court of the several counties, and the criminal court of Baltimore city, in accordance with the provisions of the code, are hereby authorized to send from time to time to the said hospital pauper lunatics of this state, to the number to which the respective counties and city of Baltimore shall respectively be entitled under the ninth section foregoing.

Ibid § 12.
Appropriation. 12. There shall be appropriated, and the treasurer of the state, upon the warrant of the comptroller, shall pay to the managers of the Maryland hospital for the insane, annually, in equal quarterly payments, on the first days of January, April, July and October, in each and every year, the sum of fifteen thousand dollars, for the support of said hospital

13. The hospital for the insane, which was heretofore located and built on its present site, at or near Catonsville, in Baltimore county, in this state, by and under the authority of the laws of this state, and which is now under the general direction and control of the managers of the Maryland hospital for the insane, is hereby declared to have been built and established on its said site by the authority and direction of this state. The board of managers of the Maryland hospital for the insane are a body politic and corporate, by the name of the Board of Managers of the Maryland Hospital for the Insane, and shall by that name have perpetual succession, may sue and be sued in any court of this state, and may have and use a common seal, and, may, at their pleasure, alter, and change the same. The said corporation shall have and exercise all the rights and powers heretofore vested in the board of managers of the Maryland hospital for the insane. The said board of managers of the Maryland hospital for the insane, as such corporation, is hereby declared to be a public agency of this state for the administration of one of the charities thereof; and the hospital aforesaid, located as aforesaid, is hereby declared to be one of the means adopted by this state for the administration of one of its public charities.

14. When any person is alleged to be a lunatic or insane pauper, the circuit court for the county in which such person may reside; or the criminal court of Baltimore, if such person resides in the city of Baltimore, shall cause a jury of twelve good and lawful men to be impaneled forthwith, and shall charge the said jury to inquire whether such person is insane or lunatic, and if found so, it shall be the duty of the court to cause such person to be sent to the almshouse of the county or city to which he belongs, or to an hospital, or to some other place better suited in the judgment of the court to his condition, there to be confined at the expense of the county or city until he shall have recovered and been discharged in due course of law. Nothing contained in this section shall prevent the friends or relations of such lunatic or insane person from confining him, or providing for his comfort.

15. The county commissioners of any county may in their discretion remove from the almshouse any lunatic

Ibid § 13.
Declared to
be a public
agency of the
state.

Art. 53, § 2.
Lunatic, or in-
sane pauper.

Inquisition of
lunacy by
jury.

Not to pre-
vent friends
of same from
confining or
providing for
him.

Ibid § 3.
County com-

missioners may send to hospital. pauper therein, and cause said lunatic pauper to be sent to the Maryland hospital for the insane, and shall levy on the county such sums as will defray the expenses incident to the removal of such lunatic, and the expenses that may be incurred during his stay in said hospital, said expenses in said hospital in no case to exceed the sum of one hundred and fifty dollars per annum. This section to apply only in case where the quota allowed any such county under article 26 of this code is filled.

16. No person shall be deemed a lunatic pauper under the preceding two sections who shall possess in his own right any property, real or personal, or be entitled to the use of any property by last will and testament, or deed of trust for his use or benefit; nor shall the child of any person whose property is actually assessed to one thousand dollars who may be afflicted with lunacy, and whose usual place of abode has been with his parents, be entitled to the benefit of the preceding section.

17. If any insane or lunatic person mentioned in the three last preceding sections, shall be possessed of real and personal property the annual profit or rent of which shall be adequate to his reasonable support in any hospital or asylum for the reception of insane or lunatic persons, the court or judge shall appoint a trustee for the estate of said lunatic or insane person, and shall require the said trustee to give bond to the state of Maryland, in such penalty and with such security as the court or judge shall approve, with condition that he will cause the said lunatic or insane person to be confined and supported in some hospital or insane asylum until such person shall have recovered his reason, and that he will faithfully administer and fully account for all such estate, income, and effects of said lunatic or insane person as shall come to his possession or be under his care or direction.

18. The trustees of the poor of the several counties and the city of Baltimore shall receive all persons committed to their respective almshouses under this article, relating to lunatics and insane, and shall provide for their accommodation and support, and the expenses thereof shall be levied upon the counties and the said city respectively.

19. Upon the recommendation of the board of directors of

*Ibid § 4.
Who to be
deemed a pau-
per lunatic.*

*Ibid § 10.
Property, how
disposed of.*

*Ibid § 11.
Trustees of
the poor to re-
ceive lunatics.*

the Maryland penitentiary, the governor may remove any insane or lunatic convict confined in the penitentiary, and provide for the support, care and safe keeping of such convict in the Maryland hospital for the insane, or any other state institution for the insane, and the expense thus incurred shall be defrayed by the board of directors of the penitentiary, out of the funds arising from or appropriated for that institution.

Art. 6, § 8.
Insane or lunatic convicts; transfer.

20. When any person indicted for a crime or misdemeanor shall allege insanity or lunacy in his defense, the jury impaneled to try such person shall find by their verdict whether such person was at the time of the commission of the offense, or still is, insane, lunatic, or otherwise.

Art. 53, § 5.
Jury may find persons indicted to be lunatic.

21. If the jury find by their verdict that such person was at the time of committing the offense, and then is, insane or lunatic, the court before which such trial was had shall cause such person to be sent to the almshouse of the county or city to which such person belonged at the time of the commission of such act, or to an hospital, or some other place better suited in the judgment of the court to the condition of such prisoner, there to be confined until he shall have recovered his reason, and be discharged by due course of law.

Ibid § 6.
How to be dealt with when so found.

22. Where any person arrested for improper or disorderly conduct, or charged with any crime, offense, or misdemeanor, against whom no indictment has been found, shall appear to the court, or be alleged to be a lunatic or insane, the court shall cause a jury of twelve good and lawful men to be impaneled forthwith, and shall charge said jury to inquire whether such person was at the time of the commission of the act complained of insane or lunatic, and still is so; and if such jury shall find that such person was at the time of the commission of such act insane or lunatic, and still is so, the court shall direct such person to be confined as directed in the preceding section, at the expense of the county or city, as the case may be, until he shall have recovered and been discharged by due course of law.

Ibid § 7.
Inquisition to inquire whether person arrested for crime or misdemeanor, is insane or lunatic.

23. If, during the recess of the circuit court for any county,

Ibid § 8.
Inquisit'n dur-
ing recess of cir-
cuit court of
county, or crim-
inal court of
Baltimore.

or the criminal court of Baltimore, any person appearing or alleged to be insane or lunatic shall be arrested and charged with any crime or misdemeanor before the judge thereof, the said judge shall issue an order to the sheriff of the county or city where said offense has been committed, requiring him forthwith to summon a jury of twelve good and lawful men, and to charge such jury to inquire whether such person was lunatic or insane at the time such offense was committed, and then is so; and if the jury find that the party charged was insane or lunatic at the time of the commission of the offense, and still is so, the judge shall commit such person, as directed in the preceding section.

24. The provisions of the preceding sections relating to lunatics and insane shall apply to the case of any person who may be arrested on any process issued by any court or judge of this state, founded on oath, requiring security to keep the peace, and who shall fail to give such security.

Ibid § 9.
Where person
failing to give
security to
keep the peace.

MASSACHUSETTS.

STATE BOARD OF HEALTH, LUNACY AND CHARITY.

1. Organization of board, term of office.
2. To have supervision over asylums, may assume control of.
3. To appoint officers, hold meetings, make by-laws; reports.
4. To visit and inspect public and private asylums.
5. To require inventories from trustees.
6. To have control over insane paupers.
7. To transfer paupers from one asylum to another.
8. To transfer paupers from almshouse to asylum; physician's certificate; to transfer from one private asylum to another.
9. Reports of private asylums.
10. Reports, when to be submitted.
11. To act as commissioners of lunacy.

GOVERNMENT OF ASYLUMS.

12. Title of asylums.
13. Property of asylums not to be condemned without authority of legislature.
14. Government vested in board of trustees, term of office.
15. Corporate powers granted.
16. Control of asylums vested in trustees.
17. By-laws and regulations; superintendent, appointment, qualifications; treasurer, bond; employes.
18. Salaries paid quarterly.
19. Semi-annual inspection, report of, statistics; treasurer's reports.
20. Accounts of treasurer to be open for inspection.
21. State legal officers to be advisors.
22. Exemption from militia duty.
23. Exemption from jury duty.
24. Government of temporary asylum for chronic insane, vested in trustees of Worcester asylum.

CONFINEMENT IN JAILS AND PRIVATE ASYLUMS.

25. House of correction, apartments for harmless insane.

26. Superintendent and matron of, to be appointed in county of Essex.
27. Commitment to county receptacle in discretion of judge.
28. Support in county receptacle, provisions for.
29. Transfer to asylum, by governor.
30. Discharge in discretion of judge.
31. Paupers not to be kept in county buildings.
32. Private asylums, licenses for.
33. Penalties for keeping private asylum without license.

ADMISSION AND DISCHARGE.

34. Commitment to asylum by judges.
35. Certificate, personal examination by judge, hearing.
36. Certificate, personal examination by physicians.
37. Notice of intention to apply for commitment.
38. Statement to be filed, contents of.
39. Warrant of arrest, service of.
40. Trial by jury in discretion of judge.
41. Impaneling of jury.
42. Verdict of jury to be final.
43. Deficiency in jury, how supplied.
44. Fees of officers and jurors.
45. Records and papers to be kept.
46. Fees of judge and physician.
47. Expenses of commitment.
48. Transfer of patients from almshouse.
49. Temporary confinement, on physician's certificate and application of town officers.
50. Bond of person committing.
51. Voluntary patients received.
52. Notice to board of charity when committed otherwise than by order of court.
53. Illegal commitment, penalties.
54. Support of indigent insane, charges.
55. Support of insane not having settlement in state, liability for.
56. Support, expenses of, how recovered by asylum.
57. Reimbursement of towns.
58. Attorney for insane person, regulations for visits of.
59. Letters of patients allowed, collection of by board of charities.

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| <p>60. Transfer of patients, in discretion of governor.</p> <p>61. Selection of patients for discharge.</p> <p>62. Discharge when cured or to custody of friends.</p> <p>63. Discharge of harmless incurable.</p> <p>64. Discharge, application for, to judge.</p> <p>65. Hearing, appearance in discretion of judge, jury trial of insanity.</p> <p>66. Order for discharge.</p> <p>67. Discharged patients supplied with clothing and money; escape and burial, expenses of, how borne.</p> <p>68. Removal of indigent insane beyond the state.</p> <p>69. Discharge, authority conferred on superintendent.</p> <p>70. Temporary leave of absence from asylum.</p> <p>71. Definition of insanity.</p> <p style="text-align: center;">CRIMINAL INSANE.</p> <p>72. When not indicted, certificate of grand jury, commitment.</p> <p>73. In capital cases, commitment by judge.</p> <p>74. Before trial, commitment by court.</p> | <p>75. Acquitted on ground of insanity, commitment by court.</p> <p>76. Acquitted in capital cases, commitment for term of his natural life.</p> <p>77. On recovery, examination, discharge by judge.</p> <p>78. Suspension of sentence on acquittal of capital crime, commitment.</p> <p>79. Suspension of execution of death penalty.</p> <p>80. Insane convicts, commission of lunacy; notice to; report; on recovery, remanded to prison.</p> <p>81. Fees of officers for commitment and removal of insane convict.</p> <p>82. Insane convicts in prison other than state prison; similar provisions.</p> <p>83. On recovery, remanded to prison.</p> <p>84. Insane in jails, transfer to asylums; on recovery, remanded to jail.</p> <p>85. Insane convicts, charges for, paid by commonwealth.</p> <p>86. Insane criminals before sentence, charges for paid by commonwealth.</p> <p>87. Provisions of act to be retroactive.</p> |
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1. The state board of health, lunacy, and charity shall consist of nine persons. The present members thereof shall continue to hold their offices during the terms for which they were appointed. Two members of the board shall retire each year, in the order of their appointment, except every fifth year, when one shall retire. The appointments or re-appointments to fill vacancies occurring from expiration of terms of office shall be for five years; and all vacancies which may occur from that cause or otherwise shall be filled by the governor, with the advice and consent of the council.

2. The board shall have general supervision over the state lunatic hospitals, the state almshouse, the state workhouse, the state primary school, the state reform school, and the state industrial school for girls; it may, when directed by the governor, assume and exercise the powers of the boards of trustees of said institutions in any matter relating to the management thereof, excepting the trusts which are vested in the trustees of the state primary and reform schools; and may assign any of its powers and duties to agents appointed for the pur-

Statutes 1882,
ch. 79, § 1.
State board of
health, lunacy,
and charity, how
organized, etc.

Ibid § 2.
To have supervision over
certain state
institutions,
etc.

May assign its
powers and

pose, and may execute any of its functions by such agents, or by committees appointed from and by said board. duties to agents.

3. The board, with the consent of the governor, shall appoint such officers as may be necessary, and fix their compensation, within the limits of the annual appropriation. Ibid § 3. To appoint its officers, fix compensation, hold monthly meetings; make by-laws, and report, serve without compensation. It shall be provided with rooms at the state house, and shall hold meetings each month on a day fixed by itself, and at such other times as may be needful. It shall make its own by-laws, and shall make a report of its doings to the governor and council on or before the thirty-first day of December in each year, such report being made up to the thirtieth day of September inclusive. It shall embody in its report a properly classified and tabulated statement of the receipts and expenses of the board and of each of the several institutions named above for the said year and a corresponding classified and tabulated statement of their estimates for the year ensuing, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates; but this provision shall not apply to estimates for the ordinary expenses of lunatic hospitals. The report shall also present a concise review of the work of the several institutions for the year preceding, with such suggestions and recommendations as to them, and the charitable, reformatory, and sanitary interests of the state, as may be deemed expedient. The members of the board, and of the boards of trustees of the state institutions above named, shall receive no compensation for their services; but their traveling and other necessary expenses shall be allowed and paid; and no person employed by the board shall be a member thereof.

4. The board shall at least, once in every year visit all places where state paupers are supported, and ascertain from actual examination and inquiry whether the laws in respect to such paupers are properly observed, particularly in relation to such as are able to labor; and shall give such directions as will insure correctness in the returns required in relation to paupers; and may use such means as may be necessary to collect all desired information in relation to their support. Ibid § 5. To visit certain institutions, etc. It shall visit the state almshouse,

the state primary school, and the state reform school, as often as once in each month, for the purpose of inspecting said institutions, and for this purpose it shall, by some woman or women deputed by it, have access at all hours of the day or night to the portions of said institutions occupied by the women or children there maintained at the public expense; and the officers of said institutions shall furnish all information concerning the condition and treatment of their inmates which the board shall require. It shall also visit and inspect every private asylum or receptacle for the insane at least once in every six months.

5. The trustees of the several institutions named in section Ibid § 7. To have annual inventory of certain institutions. two shall annually on the thirtieth day of September cause to be made and sent to the board an accurate inventory of the stock and supplies on hand, and the value and amount thereof, at each institution, under the following heads:

Live stock on the farm; produce of the farm on hand; carriages and agricultural implements; machinery and mechanical fixtures; beds and bedding in the inmates' department; other furniture in the inmates' department; personal property of the state in the superintendent's department; ready-made clothing; dry goods; provisions and groceries; drugs and medicines; fuel; library.

6. The board shall have the same powers in relation to state paupers who are inmates of either of the lunatic hospitals in this state, and their property, as are by law vested in towns and overseers of the poor in reference to paupers supported or relieved by towns. Ibid § 8. Powers of, in relation to paupers at hospitals.

7. It may transfer pauper inmates from one state charitable institution or lunatic hospital to another, or may send them to any state or place where they belong, when the public interest or the necessities of the inmates require such transfer. Ibid § 9. May transfer pauper inmates from one institution to another.

8. The board may transfer and commit to either of the state lunatic hospitals, or to the asylum for the chronic insane at Worcester, any inmate of the state almshouse or state workhouse whose condition requires such transfer; but no such transfer shall be made without the certificate of two physicians, one of whom has no Ibid § 13. May transfer inmates of almshouse or workhouse to state lunatic hospitals.

connection with any hospital or asylum for the insane, to the insanity of such inmate. Upon application of the director, manager, or trustees of a private asylum for the insane, the board shall have the power to transfer any inmates of such asylum to another private asylum, or to a state lunatic hospital; but no such transfer shall be made without the consent of the legal or natural guardian of such inmate.

9. Every private society or institution for charitable purposes, except institutions for the instruction of the deaf, dumb, and blind, when aided by a grant of money from the state treasury, shall annually prepare and send to the board a written or printed report of all its proceedings, income, and expenditures, properly classified, for the year ending on the thirtieth day of September, stating the sum appropriated by the commonwealth, the sum expended under said appropriation, the whole number and the average number of beneficiaries, the number and salaries of officers and persons employed, and such other information as the board may require.

Ibid § 16.
Private societies, etc., to make report to state board.

10. Said report, if in writing, shall be sent in by the fifteenth day of October, and, if in print, by the first day of November in each year.

Ibid § 17.
When reports to be made.

11. The state board of health, lunacy, and charity shall act as commissioners of lunacy, with power to investigate the question of the insanity and condition of any person committed to any lunatic hospital or asylum, public or private, or restrained of his liberty by reason of alleged insanity, at any place within this commonwealth; and shall discharge any person so committed or restrained, if in its opinion such person is not insane, or can be cared for after such discharge without danger to others, and with benefit to himself.

Ch. 87, § 1.
State board to be commissioners of lunacy, etc.

12. The titles of the state lunatic hospitals shall be, severally, The Worcester Lunatic Hospital, The Taunton Lunatic Hospital, The Northampton Lunatic Hospital, and the Danvers Lunatic Hospital.

Ibid § 2.
Titles of hospitals.

13. The lands now holden and which may hereafter be holden by the trustees of any state lunatic hospital in trust for the commonwealth, for the use of the institution of which they are trustees, shall not

Ibid § 3.
Lands of hospitals not to be taken for streets, etc., unless, etc.

be taken for a street, highway, or railroad, without leave of the legislature specially obtained.

14. The government of each of the state lunatic hospitals at Worcester, Taunton, Northampton, and Danvers, shall be vested in a board of five trustees, appointed and commissioned by the governor with the advice and consent of the council, subject to removal only for sufficient cause. The trustees now in office shall continue to hold their offices until the terms thereof expire according to the provisions of this section. On the first Wednesday of February in each year the term of office of the senior member of each board, as they stand arranged on the list of their appointments, shall terminate, and the name of the person appointed to fill the vacancy shall be placed at the bottom of the list, and other vacancies may at any time be filled, and the names of the persons appointed substituted in the list for the remainder of the vacant terms.

*Ibid § 4.
Government
of each hospi-
tal vested in
five trustees.
Appointment
and term of
office.*

15. The trustees of each hospital shall be a corporation for the purpose of taking and holding, to them and their successors, in trust for the commonwealth, any grant or devise of lands, and any donation or bequest of money or other personal property, made for the use of the institution of which they are trustees, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to carry said purposes into effect.

*Ibid § 5.
Trustees to be
a corporation,
to take and
hold grants,
etc.*

16. They shall take charge of the general interests of the institution, and see that its affairs are conducted according to the requirements of the legislature and the by-laws and regulations which the board shall establish for the internal government and economy thereof; and they shall be reimbursed all expenses incurred in the discharge of their official duties.

*Ibid § 6.
General pow-
ers and duties.*

17. They shall establish by-laws and regulations, with suitable penalties, for the internal government and economy of the institution; shall appoint a superintendent who shall be a physician and constantly reside at the hospital, and a treasurer who shall give bond for the faithful discharge of his duties; shall appoint, or make

*Ibid § 7.
To make by-
laws, appoint
officers, fix
salaries, etc.*

provision in the by-laws for appointing, such officers as in their opinion may be necessary for conducting efficiently and economically the business of the institution; and shall determine, subject to the approval of the governor and council, the salaries of all the officers. All their appointments shall be made in such manner, with such restrictions, and for such terms of time, as the by-laws may prescribe.

18. The salaries of the superintendents, assistant physicians, stewards, and matrons of the state lunatic hospitals, shall be paid quarterly from the current receipts of the several hospitals.

Ibid § 8.
Salaries of officers, how paid.

19. There shall be thorough visitations of each hospital by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, at each of which a written account of the state of the institution shall be drawn up, which shall be presented at the annual meeting to be held between the first and fifteenth days of October. At the annual meeting a full and detailed report shall be made, exhibiting a particular statement of the condition of the hospital and all its concerns, with a list of the salaried officers and their salaries, and in a tabular form, under the heads specified in section seven of chapter seventy-nine, the value of the stock and supplies, to be laid before the governor and council on or before the fifteenth day of October, for the use of the government; and at the same meeting the treasurer shall present to the trustees his annual report on the finances of the institution; both of which reports shall be made up to the thirtieth day of September inclusive. The trustees shall audit the report of the treasurer, and transmit it with their annual report to the governor and council.

Ibid § 9.
Visitation of hospitals, annual meetings, reports.

20. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees.

Ibid § 10.
Treasurer's books.

21. The attorney-general and district-attorneys shall advise and consult with the trustees and treasurers of the several state lunatic hospitals, when requested by them, on all questions of law relating to their official business.

Ch. 17, § 23.
Attorney-general and district-attorneys to advise with certain trustees, etc.

22. In addition to the persons exempted from enrolment in the militia by the laws of the United States, the per-

Ch. 14, § 2.

Exempt from militia duty. sons hereinafter mentioned shall also be absolutely exempted from enrolment; viz.:

* * * * Superintendents, officers, and assistants employed in or about either of the state hospitals, * * * * who have been so employed within three months next preceding the time of enrolment.

23. The following persons shall be exempt from serving as jurors, to wit:

Ch. 170, § 2. Exempt from jury duty. * * * * Superintendents, officers, and assistants employed in or about a state hospital, * * * * lunatic hospital, * * * *

24. The trustees of the Worcester Lunatic Hospital shall have the same authority relative to the management and government of the temporary asylum for the chronic insane at Worcester, the care of the inmates, and the collection and disbursement of moneys for and on account of it, and to the same extent, as if said asylum was a part of said hospital; except that the inmates thereof shall be only such as may be transferred thereto by the state board, according to law.

25. There shall be in each county within the precincts of the house of correction, or if in the judgment of the county commissioners it cannot be conveniently provided within the same, then in some other building or buildings to be deemed a part of the house of correction, a convenient apartment or receptacle for the confinement of insane persons not furiously mad.

26. The county commissioners of the county of Essex shall appoint a superintendent and matron for the receptacle in that county, and all persons confined therein shall be under the care and custody of said superintendent; who shall keep a record of all commitments and discharges, and receive a reasonable compensation for his services. Said county shall have the same remedies for the expenses of the care and support of such persons as are provided for keepers and masters of houses of correction in relation to the maintenance of prisoners committed to houses of correction.

27. Any judge authorized under this chapter to commit lunatics may in his discretion commit any insane person not furiously mad, and having a settlement in this state, to the county receptacle aforesaid.

Ibid § 48. Who may commit insane persons not furiously mad.

28. Provision shall be made for the comfortable support of all persons confined in said receptacles, and they shall be governed or employed in such manner as the county commissioners may in the exercise of their discretion deem best. Such sum a week shall be allowed and paid for the support of persons so confined as the commissioners shall direct, and the same may be recovered of such person, or of any parent, kindred, master, guardian, city, or town, bound by law to maintain him.

*Ibid § 49.
Support of
persons con-
fined.*

29. Any insane person confined by legal authority in a jail, house of correction, or such county receptacle, may be removed therefrom to either of the state lunatic hospitals, or to any other jail, house of correction, or other suitable place, by order of the governor, when it appears to him that such removal would be expedient and just; and the sheriff of the county in which such person is confined shall execute such order, and convey the insane person to the place therein designated.

*Ibid § 50.
Insane per-
sons confined
in jails may
be removed
by governor.*

30. Any person confined by virtue of section forty-eight may be discharged, when in the opinion of a judge authorized to commit insane persons such discharge would be for the benefit of such person, or when in his opinion such person would be comfortably supported by any parent, kindred, friend, master, or guardian, or by any place in which he has a legal settlement.

*Ibid § 51.
How insane
persons not
furiously mad
may be dis-
charged.*

31. The keeper of a jail, house of correction, or county receptacle, shall not contract for supporting within the county buildings any lunatic who is a town pauper, without first obtaining the approbation in writing of the county commissioners; and for every offense against this provision such keeper shall forfeit not less than one hundred dollars.

*Ibid § 52.
Jailers, etc.,
not to contract
for support of
insane pau-
pers.*

32. The governor and council may license any suitable person to establish and keep an asylum or private house for the reception and treatment of insane persons, and may at any time revoke such license. And such asylum or private house shall be subject to visitation by the governor and council, or any committee thereof, and by the judge of the probate court of the county wherein the same is situated.

*Ibid § 53.
Private asy-
lums to be li-
censed.*

33. Whoever establishes or keeps such an asylum or private house without a license, unless otherwise authorized by law, shall forfeit a sum not exceeding five hundred dollars.

*Ibid § 54.
Penalty for
keeping with-
out license.*

34. A judge of the supreme judicial court or superior court, in any county where he may be, and a judge of the probate court, or of a police, district, or municipal court, within his county, may commit to either of the state lunatic hospitals any insane person, then residing or being in said county, who in his opinion is a proper subject for its treatment or custody.

*Ibid § 11.
Judges may
commit insane
persons to
state hospitals*

35. Except when otherwise specially provided, no person shall be committed to a lunatic hospital, asylum, or other receptacle for the insane, public or private, without an order or certificate therefor, signed by one of the judges named in the preceding section, said person residing or being within the county as therein provided. Such order or certificate shall state that the judge finds that the person committed is insane, and is a fit person for treatment in an insane asylum. And said judge shall see and examine the person alleged to be insane, or state in his final order the reason why it was not deemed necessary or advisable to do so. The hearing, except when a jury is summoned, shall be at such place as the judges shall appoint. In all cases the judge shall certify in what place the lunatic resided at the time of his commitment; or if the confinement is ordered by a court, the judge shall certify in what place the lunatic resided at the time of the arrest in pursuance of which he was held to answer before such court; and such certificate shall, for the purposes of the preceding section, be conclusive evidence of his residence.

*Ibid § 12.
No person to
be committed
to any hospi-
tal, without
order of judge,
except, etc.;
what the or-
dershall state.*

36. No person shall be so committed, unless in addition to the oral testimony there has been filed with the judge a certificate signed by two physicians, each of whom is a graduate of some legally organized medical college, and has practiced three years in the state, and neither of whom is connected with any hospital or other establishment for treatment of the insane. Each must have personally examined the person alleged to be insane within five days of signing the certificate; and each shall certify that

*Ibid § 13.
Certificate of
two phys-
icians.*

in his opinion said person is insane and a proper subject for treatment in an insane hospital, and shall specify the facts on which his opinion is founded. A copy of the certificate, attested by the judge, shall be delivered by the officer or other person making the commitment to the superintendent of the hospital or other place of commitment, and shall be filed and kept with the order.

37. A person applying for the commitment or for the admission of a lunatic to a state lunatic hospital, under the provisions of this chapter, shall first give notice in writing to the mayor, or one or more of the selectmen, of the place where the lunatic resides, of his intention to make such application; and satisfactory evidence that such notice has been given shall be produced to the judge in cases of commitment.

Ibid § 14.
On application for commitment to state hospital, notice to be given to selectmen, etc.

38. Upon every application for the commitment or admission of an insane person to a hospital or asylum for the insane, there shall be filed with the application, or within ten days after the commitment or admission, a statement in respect to such person, showing as nearly as can be ascertained his age, birthplace, civil condition, and occupation; the supposed cause and the duration and character of his disease, whether mild, violent, dangerous, homicidal, suicidal, paralytic, or epileptic; the previous or present existence of insanity in the person or his family; his habits in regard to temperance; whether he has been in any lunatic hospital, and, if so, what one, when, and how long; and, if the patient is a woman, whether she has borne children, and, if so, what time has elapsed since the birth of the youngest; the names and address of his father, mother, children, brothers, sisters, or other next of kin not exceeding ten in number, and over eighteen years of age, when the names and address of such relatives are known by the person or persons making such application, together with any facts showing whether he has or has not a settlement, and, if he has a settlement, in what place; and if the applicant is unable to state any of the above particulars, he shall state his inability to do so. The statement, or a copy thereof, shall be transmitted to the superintendent of the hospital or asylum, to be filed with the order of commitment or the application for admission. The super-

Ibid § 15.
In all cases, statement to be filed with Judge.

intendent shall, within two days from the time of the admission or commitment of an insane person, send, or cause to be sent, notice of said commitment in writing, by mail, postage prepaid, to each of said relatives, and to any other two persons whom the person committed shall designate.

39. After hearing such other evidence as he may deem proper, the judge may issue a warrant for the apprehension and bringing before him of the alleged lunatic, if in his judgment the condition or conduct of such person renders it necessary or proper to do so. Such warrant may be directed to and be served by a private person named in said warrant, as well as by a qualified officer; and pending examination and hearing, such order may be made concerning the care, custody, or confinement of such alleged lunatic as the judge shall see fit.

40. The judge may, in his discretion, issue a warrant to the sheriff, or his deputy, directing him to summon a jury of six lawful men to hear and determine whether the alleged lunatic is insane.

41. The jurors shall be selected in equal numbers from the place in which the trial is had, and one or two adjoining places, as the judge shall direct; and the same proceedings shall be had in selecting and impaneling the jury as are prescribed in chapter forty-nine; except that in the counties of Suffolk and Nantucket all the jurors may be taken from the same place.

42. The judge shall preside at such trial, and administer to the jury an oath faithfully and impartially to try the issue, and the verdict of the jury shall be final on the complaint.

43. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the judge shall cause the officer who served the summons, or in his absence the officer attending the jury, to return suitable persons to supply the deficiency; and shall have the same authority as the supreme judicial court to enforce the attendance of jurors and witnesses, and inflict fines for non-attendance.

44. The officer who summons and attends the jury shall receive therefor four cents a mile for all necessary

*Ibid § 16.
Judge may
cause alleged
lunatic to be
brought be-
fore him.*

*Ibid § 17.
Jury may be
summoned.*

*Ibid § 18.
How jury to
be selected
and im-
paneled.*

*Ibid § 19.
Judge to pre-
side; verdict.*

*Ibid § 20.
How deficien-
cy in jury
supplied.*

*Ibid § 21.
Fees of off-
icer.*

travel, and one dollar and fifty cents for each day that he attends upon them; and the jurors and witnesses shall be entitled to such compensation as is prescribed for jurors and witnesses in the supreme judicial court.

45. Each judge shall keep a docket or record of the causes relating to lunatics coming before him, numbered or otherwise properly designated, and the disposition of them. He shall also receive and keep on file the original application, statement of applicant, and certificate of physicians; and the copy of the order of commitment, attested by and with the return thereon of the officer or other person serving the same.

cern. jurors
and witnesses.

Ibid § 22.
Judge to keep
docket, origi-
nal applica-
tion, etc.

46. The fees of the judge shall be as follows: for hearing and determining the application and filing papers, in cases where the alleged lunatic is brought before him, three dollars; and in cases where he is required to go from his office or place of business to see and examine the alleged lunatic, an additional fee of one dollar and all necessary expenses of travel. In cases where more than one day is actually and necessarily occupied in a hearing, two dollars for each additional day shall be allowed. The fee for the physician's certificate shall be two dollars for each physician, and twenty cents for each mile traveled one way. The fees for officers serving process under this chapter shall be the same as are allowed by law in like cases.

Ibid § 23.
Fees of judges,
physicians and
officers.

47. All necessary expenses attending the apprehension, examination, trial, or commitment of an alleged lunatic, shall, where the commitment is to a state lunatic hospital, county receptacle, or the Boston Lunatic Hospital, be allowed and certified by the judge, and presented as often as once a year to the county commissioners, who shall examine and audit the same; and they shall then be paid by the treasurer of the county of which the alleged lunatic is an inhabitant. When application is made for commitment to any other asylum, hospital, or receptacle, the expenses shall be paid by the applicant, or some one in his behalf.

Ibid § 24.
Expenses,
how paid.

48. When the state board has reason to believe that any insane person, not incurable, is deprived of proper remedial treatment, and is confined in an almshouse or other place, whether such insane person

Ibid § 25.
State board to
apply for com-
mitment to
hospital,
when.

is a public charge or otherwise, it shall cause application to be made to a judge for the commitment of such person to a hospital in the manner herein prescribed.

49. The superintendent or keeper of any lunatic hospital, including the McLean asylum at Somerville, may receive into his custody and detain in such hospital or asylum for a period not exceeding five days, without an order of a judge as provided in section eleven, any person as insane whose case is duly certified to be one of violent and dangerous insanity and emergency by two physicians qualified as provided in section thirteen, which certificates shall be separately made and signed, and shall conform in all other respects to the provisions of section thirteen. In addition to such certificates, an application signed by one of the selectmen of the town, or by the mayor, or one of the aldermen of the city in which such insane person resides or is found, shall be left with the superintendent of the hospital or asylum in which the insane person is received, and such application shall contain the statement in respect to such insane person which is required by section fifteen and a further statement that the case is one of violent and dangerous insanity.

50. When an insane person is committed to a lunatic hospital or asylum in accordance with the provisions of the preceding section, the party committing such person shall give a bond in the sum of one hundred dollars to the treasurer of such hospital or asylum, with condition that he will within five days procure an order for the commitment of said patient as provided in section eleven, or failing thereof will remove him.

51. The superintendent or keeper of any hospital as aforesaid may receive and detain therein, as a boarder and patient, any person who is desirous of submitting himself to treatment, and makes written application therefor, but whose mental condition is not such as to render it legal to grant a certificate of insanity in his case. No such boarder shall be detained for more than three days after having given notice in writing of his intention or desire to leave such hospital.

52. When a patient is received into any such hospital upon his own application, or under the provisions of sec-

Ibid § 26.
Persons
violently in-
sane, etc.

Ibid § 27.
Bond in such
cases.

Ibid § 28.
Persons mak-
ing voluntary
application
may be
received.

Ibid § 29.
Notice to be

tion twenty-six, the superintendent thereof shall give immediate notice of such reception to the state board of health, lunacy, and charity, stating all the particulars of the case, including the legal settlement of the person so received, if known; and said board shall immediately cause such cases to be investigated and a record to be made of all the facts pertaining thereto.

53. Any physician who wilfully conspires with any person unlawfully or improperly to commit to any lunatic hospital or asylum in this state any person who is not insane shall be punished by fine or imprisonment, at the discretion of the court.

*Ibid § 30.
Penalty upon
physician for
conspiring to
commit sane
person.*

54. The price for the support, in state lunatic hospitals, of state, city, and town paupers, shall be three dollars and twenty-five cents a week for each person.

*Ibid § 31.
Price of board for
lunatic paupers
in state hospitals.*

55. The charges for the support of lunatics not having known settlements in this state shall be paid quarterly by the commonwealth; and the same may afterwards be recovered, by the treasurer of the commonwealth, of the lunatics themselves, if of sufficient ability to pay, or of any person or kindred bound by law to maintain them, or of the place of their settlement, if any such is ascertained. And the district-attorneys or other prosecuting officers shall bring actions therefor when requested.

*Ibid § 32.
Charges for
state paupers
to be paid
quarterly;
and may after
be recovered
by the state.*

56. The charges for the support of lunatics having known settlements in this state shall be paid quarterly, either by the persons bound to pay, or by the place in which such lunatics had their residence at the time of their commitment, unless other sufficient security is taken, to the satisfaction of the trustees, for such support. If any place or person refuses to pay such charges, or such sum as may be charged and due according to the by-laws of the hospital for the removal of a patient whom the trustees are authorized by law to remove, for thirty days after the same has been demanded in writing by the treasurer of the mayor and aldermen of the city, or of the selectmen of the town, or of the person liable therefor, the same, with interest from the time of such demand, may be recovered for

*Ibid § 33.
For town and
city paupers
to be paid
quarterly; if
not, may be
recovered, etc.*

the use of the hospital, in an action to be instituted by the district-attorneys, or other prosecuting officers, in the name of the treasurer, against such delinquent city, town, or person.

57. Every city or town paying expenses for the support or removal of a lunatic committed to either hospital shall have like rights and remedies to recover the full amount thereof, with interest and costs, of the place of his settlement, as if such expenses had been incurred in the ordinary support of the lunatic; and the lunatic, if of sufficient ability to pay the same, and any kindred bound by law to maintain him, shall be liable for all such expenses paid by a city or town in either case.

*Ibid § 34.
Remedy of
towns paying
for support,
etc.*

58. An attorney at law, regularly retained by or on behalf of any person committed to a lunatic hospital, asylum, or receptacle for the insane, shall be admitted to visit such client at all reasonable times, if in the opinion of the superintending officer of such hospital, asylum, or receptacle, such visit would not be injurious to such person, or if a judge of the supreme judicial court, superior court, or probate court in any county first orders in writing that such visits be allowed.

*Ibid § 35.
Attorney may
visit patients,
when.*

59. All patients in any lunatic hospital, asylum, or receptacle for the insane shall be allowed to write monthly to the superintendent and to the state board; and they shall be furnished by the superintendent with all materials necessary for such correspondence. A locked box shall be placed in each ward, in which each writer may deposit his letters, and the boxes shall be opened and the letters distributed monthly by the state board.

*Ibid § 36.
Patients pri-
vileges in re-
gard to letter
writing.*

60. The governor may at any time cause to be removed from any one of the state lunatic hospitals to either of the others such of the inmates thereof as circumstances or the necessities of the case may in his judgment require.

*Ibid § 38. Governor
may transfer inmates
from one S. L. H. to
another.*

61. If at any time all the state lunatic hospitals are so full that all the inmates cannot be suitably accommodated therein, and in the opinion of the trustees of either hospital it is proper that some should be removed, the trustees may remove to their respective homes, or to the places of their legal settlement, or of

*Ibid § 39.
Trustees may
remove in-
mates when
hospitals too
crowded.*

their residence, so many as may be necessary to afford suitable accommodation for the remainder; but only such patients shall be selected for removal as, in the opinion of the trustees and superintendent, are not susceptible of improvement, and can be suitably managed at their homes or in the places to which they may be sent.

62. Any two of the trustees of a state lunatic hospital, on an application in writing or of their own motion, or any judge of the supreme judicial court at any time and in any county, or the judge of the probate court for the county in which the hospital is situated, or in which the patient had his residence at the time of his commitment or admission, on such application, and after such notice as the said trustees or judge may deem reasonable and proper, may discharge any person confined therein, if it appears that such person is not insane, or, if insane, will be sufficiently provided for by himself, his guardian, relatives, or friends, or by the city or town liable for his support, or that his confinement therein is not longer necessary for the safety of the public or his own welfare.

*Ibid § 40.
Inmates may
be discharged
by trustees or
court.*

63. Any two of the trustees may also remove any person confined therein to the city or town in which the judge committing him certified that he resided at the time of the order for commitment, or to the place of his settlement, when in their opinion he ceases to be dangerous and is not susceptible of mental improvement at the hospital, if such city or town does not remove him after reasonable notice in writing.

*Ibid § 41.
May be re-
moved to
place of resi-
dence, when.*

64. Any person may make written application to a judge of the supreme judicial court at any time and in any county, setting forth that he believes or has reason to believe that a person therein named is confined as an insane person in a lunatic hospital or other place, whether public or private, and ought not longer to be so confined, and stating the names of all persons supposed to be interested in keeping him in confinement, and requesting his discharge.

*Ibid § 42.
Application
for discharge
may be made
to court,
when.*

65. The judge, upon reasonable cause being shown for a hearing, shall order notice of the time and place of hearing on said application to be given to the super-

*Ibid § 43.
Notice to be
given to su-*

perintendent; intendent in charge of the hospital or place of confinement, and to such other persons as he deems proper, and such hearing when ordered shall be had as speedily as conveniently may be before any judge of the supreme judicial court in any county. The alleged insane person may be brought before the judge at the hearing upon a writ of habeas corpus, if any party so requests and the judge deems it proper, and an issue or issues may be framed and submitted to a jury by direction of the judge or on the request of any person who appears in the case. The jurors may be those in attendance on said court, if in session at the time of the hearing, or may be summoned for the special purpose on venires issued by the clerk of said court upon the order of the judge substantially in accordance with the provisions of chapter one hundred and seventy.

66. If it appears upon the verdict of the jury, or if in the opinion of the judge if not submitted to a jury, that the person so confined is not insane, or that he is not dangerous to himself or others, and ought not longer to be so confined, he shall be discharged from such confinement.

67. No pauper shall be discharged from a state hospital without suitable clothing; and the trustees may furnish the same at their discretion, together with such sum of money, not exceeding twenty dollars, as they may deem necessary. Such money and the cost of such clothing, the expense of pursuing such pauper lunatics as escape therefrom, and of burial of such as die in the hospitals, shall be reimbursed to the trustees by the places of legal settlement of city and town paupers, and by the commonwealth in the case of state paupers.

68. Upon complaint of the trustees of a state lunatic hospital, the county commissioners of a county, the trustees of a state pauper establishment, or the overseers of the poor of a place, a judge of the probate court, [in term time or vacation, may, by warrant directed to a constable or other person therein designated,] cause the removal of state lunatic paupers under their charge to any other state, or beyond sea, where they belong.

69. The board of trustees of any of the state lunatic hospitals

perintendent;
further pro-
ceedings*.

Ibid § 44.
If not insane
or dangerous,
to be dis-
charged.

Ibid § 45.
Trustees to
furnish suit-
able clothing,
etc.

Ch. 86, § 39,
as modified by
ch. 86, § 38.
Removal of
paupers.

or of the Massachusetts general hospital may by vote confer on the superintendent of the hospital or asylum under their control, authority to discharge therefrom any inmate thereof committed thereto as an insane person, provided due written notice of intention so to discharge shall be sent by said superintendent to the person or persons who originally signed the petition for the commitment of such inmate.

Act of 1883,
ch. 78, § 1.
Discharge of
inmates of in-
stitutions for
the insane.

70. Said superintendent may also, when he shall deem it advisable, permit any such inmate to leave the hospital or asylum temporarily in charge of his guardian, relatives or friends, for a period not exceeding sixty days, and receive him when returned by such guardian, relatives or friends within such period, without any further order of commitment.

Ibid § 2.
Temporary
release of in-
mates of insti-
tutions for the
insane.

71. The words "insane person" and "lunatic" shall include every idiot, non-compos, lunatic, insane, and distracted person.

Ch. 3, § 3,
cl. 10.

72. When a person held in prison on a charge of having committed an indictable offense is not indicted by the grand jury by reason of insanity, the grand jury shall certify that fact to the court, and thereupon the court, if satisfied that he is insane, may order him to be committed to a state lunatic hospital, under such limitations as may seem proper.

Ch. 213, § 15.
When not in-
dicted by rea-
son of insanity
sent to hos-
pital.

73. A judge of the supreme judicial court sitting for the arraignment of a person charged with murder shall have the same power to commit such person to a lunatic hospital, if found by him to be insane, as the court would have if sitting at a regular term thereof.

Ibid § 30.
Single judge
may commit
to insane hos-
pital.

74. When a person indicted is at the time appointed for the trial found to the satisfaction of the court to be insane, the court may cause him to be removed to one of the state lunatic hospitals for such a term and under such limitations as it may direct.

Ch. 214, § 16.
Prisoner
found insane
to be sent to
hospital.

75. When a person is acquitted by the jury by reason of insanity, the jury shall state that fact to the court, and thereupon the court, if satisfied that he is insane, may order him to be committed to a state lunatic hospital, under such limitations as may seem proper.

Ibid § 19.
Commitment
to lunatic hos-
pital of per-
son acquitted
by reason of
insanity.

76. When a person indicted for murder or manslaughter is acquitted by the jury by reason of insanity, the court shall order such person to be committed to one of the state lunatic hospitals during his natural life.

Ibid § 20.
Persons acquitted of murder, etc., by reason of insanity, committed to hospital for life.

77. Any person committed to a state lunatic hospital under the preceding section may be discharged therefrom by the governor, by and with the advice and consent of the council, when he is satisfied, after a hearing of the matter, that such person may be discharged without danger to others.

Ibid § 21.
May be discharged from hospital by governor and council.

78. If a person convicted of a capital crime is, at the time when motion for sentence is made, found to the satisfaction of the court to be insane, the court may cause such person to be removed to one of the state lunatic hospitals for such a term and under such limitations as it may direct. * * * *

Ch. 215, § 34.
Court not to pass sentence on insane persons.

79. If it appears to the satisfaction of the governor and council that a convict under sentence of death has become insane, the execution of said sentence may be respited by the governor, by and with the advice of the council, from time to time for stated periods, until it appears to their satisfaction that the convict is no longer insane.

Ibid § 35.
Respite of execution in such cases.

* * *

80. The state board of health, lunacy, and charity shall designate two persons, expert in cases of insanity, to examine convicts, in the state prison or reformatory prison, alleged to be insane. When any such convict appears to be insane, the warden or superintendent shall notify one of the persons so designated, who shall, with the physician of the prison, examine the convict, and report to the governor the result of their investigation. If upon such report the governor deems the convict insane and his removal expedient, he shall issue his warrant directed to the warden or superintendent authorizing him to cause the convict to be removed to one of the state lunatic hospitals, there to be kept until, in the judgment of the superintendent and trustees of the hospital to which he may be committed, he should be returned to prison. When the superintendent and trustees of the hospital have come to

Ch. 222, § 10.
Removal of insane persons from state and reformatory prisons to hospitals.

such judgment, the fact shall be certified upon the warrant of the governor, and notice shall be given to the warden or superintendent of the prison, who shall thereupon cause the convict to be reconveyed to the prison, there to remain pursuant to the original sentence, computing the time of his detention or confinement in the hospital as part of the term of his imprisonment.

81. Any officer authorized to serve criminal process may execute an order for the removal of a convict to or from any prison under the provisions of the preceding section. The person making such examination of a convict under the preceding section shall, if he is not a salaried officer of the state board of health, lunacy, and charity, receive for his services his actual traveling expenses and three dollars a day for each day so employed, which shall be paid from the annual appropriation of the prison in which the convict is examined.

*Ibid § 11.
What officers
may execute
order of re-
moval; pay
of experts.*

82. When a convict in a house of correction or prison other than the state prison or reformatory prison appears to be insane, the physician in attendance shall make a report thereof to the jailer or master, who shall transmit the same to one of the judges mentioned in section eleven of chapter eighty-seven. The judge shall make inquiry into the facts, and, if satisfied that the convict is insane, shall order his removal to one of the state lunatic hospitals pursuant to the provisions of sections twelve and thirteen of said chapter.

*Ibid § 12.
Insane per-
sons in other
prisons, how
removed.*

83. If a person so removed becomes sane before the expiration of his sentence, he shall be forthwith returned to the prison or house of correction from which he was removed, there to remain pursuant to his original sentence, computing the time of his confinement in the hospital as part of the term of his imprisonment.

*Ibid § 13.
If sane before
term expires
to be returned.*

84. When a person held in any jail for trial or for sentence, except for a capital crime, appears to be insane, he may be removed to one of the state lunatic hospitals as a convict may be removed from a house of correction under section twelve. When a person so removed is, in the opinion of the trustees and superintendent of the hospital, restored to sanity, he shall forthwith be returned to the jail from which he was removed, where he shall be held in accord-

*Ibid § 14.
Transfer of
insane per-
son held for
trial.*

ance with the terms of the process by which he was originally committed thereto.

85. When a state prison convict is committed to a state lunatic hospital the charges for his support shall be paid by the commonwealth, until the expiration of his term of sentence to the state prison.

Act of '83, ch. 148, § 1.
Insane criminals, ex-
pense borne by state
during term of sen-
tence.

86. When a person held in prison on a charge of felony is committed to a state lunatic hospital under the provisions of sections fifteen or thirty of chapter two hundred and thirteen or of sections sixteen, nineteen or twenty of chapter two hundred and fourteen of the public statutes, the charges for his support therein shall be paid by the commonwealth.

Ibid § 2.
Before conviction, on charge
of felony.

87. The provisions of this act shall apply to such commitments already made.

Ibid § 3.

MICHIGAN.

BOARD OF CORRECTION AND CHARITIES.

1. Appointment, title, term of office.
2. Oath of office, to appoint secretary and prescribe duties and salary.
3. Inspection of asylums by board.
4. Expenses of board, how paid.
5. Interest in contracts forbidden.
6. Reports, special investigation.
7. General inspection and reports.
8. Construction of act.
9. Governor may authorize inspection of institutions in other states
10. Women to be appointed to make same inspection.

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11. State institutions, enumeration of.
12. Reports, character of.
13. Boards to cause inventory of property made, inventory filed.
14. Institutions to keep records of receipts and expenditures.
15. Accounts to be audited.
16. Estimates for appropriations submitted to board; visitation.
17. Plans of building, submitted to whom, inspection by boards.

MICHIGAN AND EASTERN ASYLUMS.

18. Asylums, located, title.
19. Counties apportioned.
20. Trustees of Michigan asylum.
21. Trustees of Eastern Michigan asylum, appointment.
22. Two trustees to be appointed every two years.
23. Vacancies, control of asylums vested in boards, qualifications of trustees.
24. Trustees, powers and duties.
25. Officers, qualifications.
26. Trustees to receive actual expenses.
27. Salaries of officers, limitations.
28. Salaries, manner of payment.
29. Trustees granted corporate powers.
30. Oath of office.
31. Trustees to establish by-laws.
32. Superintendent, powers and duties, vacancy, how filled.
33. Exemption of officers from militia, road and jury service.

34. Trustees to keep records, inspection of by governor.
35. Inspection by board of trustees, at what times, records to be kept.
36. Asylum to be open to inspection.
37. Treasurer, powers and duties.
38. Vested with powers to collect money due asylum.
39. Steward, powers and duties.
40. Notice of completion of Eastern asylum to be given.

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41. Commissioners, appointment.
42. Selection of site, conditions of.
43. Deed of property.
44. Commissioners to adopt plans for construction.
45. Advertising for bids.
46. Bond of contractors.
47. Superintendent and secretary.
48. Compensation of commissioners.
49. Appropriation for construction.
50. Secretary, duties of.
51. Oath of commissioners.
52. Appropriation for site.
53. To be under same provisions as Michigan asylum.
54. Medical administration under homœopathic control.

ADMISSION AND DISCHARGE.

55. Probate judge to summon physicians and other witnesses.
56. Insane not to be confined with convicts nor in jail over ten days.
57. Penalty for illegal confinement.
58. Indigent insane, regulations for commitment and support.
59. Indigent insane, commitment to asylum, by county officers.
60. Superintendent, duty of, upon admission of insane.
61. Indigent insane, expenses of support borne by county after three months residence in asylum.
62. Support of insane, how borne, charges, limit of, report of.
63. Support, further provisions.
64. Expenses of clothing and maintenance.

65. Expenses of return to county, how borne.
66. Reimbursement of counties.
67. Discharged patients to be furnished with clothing and money.
68. Condition of patients before admission.
69. Expenses for support where residence is uncertain.
70. Provisions for payment of expenses where counties neglect to pay.
71. Statistics of insane by superintendent of poor.
72. Probate judge to inquire into legal settlement of indigent insane.
73. Joint meetings of trustees, transfer of insane.
74. Definition of terms.
75. No insane to be confined in almshouses.

INSANE SOLDIERS AND MARINES.

76. Transferred to asylums.
77. Support of, how paid.

STATE TO BE TRUSTEE.

78. Devise or bequest to state; for benefit of insane, to be valid.
79. Execution of will, amount of trust.
80. Upon death of testator notice to be given to attorney-general.
81. Duty of executors, fund created.
82. Such insane to be committed to Michigan asylum, support of.
83. Transfer to asylum.
84. Proceedings upon recovery of such persons, payment of fund to.
85. State treasurer, duties of, upon receipt of such fund.
86. New asylums to have same powers and duties as Michigan asylum in such cases.
87. Commitment of such insane.

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88. Establishment, location, title.
89. Control vested in managers of house of correction.
90. Board to adopt plans, limitation of expense.
91. Appropriation for construction.
92. Warrants, how drawn.
93. Superintendent and officers, appointment, qualification.
94. Salaries of officers, amount.
95. Oath of officers.
96. Managers to make by-laws.
97. Superintendent, powers and duties of, absence how filled.

98. Exemption of officers from militia, road and jury service.
99. Inspection by board of managers, records and reports.
100. Asylum to be open at all times to inspection of managers.
101. Treasurer, powers and duties of.
102. Invested with powers of superintendent of poor.
103. Superintendent to make all purchases, and keep accounts.
104. To keep records of admission.

ADMISSION AND DISCHARGE.

105. Commitment upon escape of indictment, or acquittal; regulations for insane after indictment.
106. Commissioners may be appointed to make examination.
107. Charges for support regulated, when to be supported by state.
108. Support, liability of guardian and towns.
109. Support, liability of county, reimbursement.
110. Support, reimbursement.
111. Support, how collected by asylum.
112. Superintendent, report to board.
113. Transfer of criminal insane from other asylums.
114. Transfer from prison or houses of correction.
115. Governor may transfer homicidal criminals to asylum.
116. Criminal insane after expiration of sentence; on restoration, remanded to prison.
117. Bills for support of state patients.
118. Criminal insane, commitment upon escape from indictment or trial.
119. Becoming insane at any stage of proceeding, committed to asylum; on restoration, remanded or discharged.
120. Person imprisoned upon civil process, notice to attorney, commitment, rights of creditors.
121. Acquittal for misdemeanor; like proceedings.
122. Criminal insane, discharge.
123. Transfer of prisoners to asylum, on restoration, remanded.
124. May be placed in prison department for insane.
125. Physician, duty of, criminal restored to be recommitted.
126. Discharge of insane convicts.
127. Sheriff to execute warrant.
128. Examination before judge, commitment, report of judge.

1. The governor, with the advice and consent of the

senate, shall appoint four suitable persons, residents of the state, to be called and known as "the board of corrections and charities," who shall hold their office respectively for the period of two, four, six, and eight years, as indicated by the governor in making the appointments; and all appointments thereafter made, except to fill vacancies, shall be for the period of eight years. The governor shall be, *ex-officio*, a member of said board. Any vacancy occurring in said board, by reason of removal, resignation, or otherwise, shall be filled by the governor; the appointment in any case thus made to be subject to ratification or rejection by the senate at the first regular session following such appointment. The governor may remove any member of said board for misfeasance or malfeasance in office.*

Act of 1871,
No. 192, § 1, as
amended 1873,
No. 64, and
1879, No. 82.
Appointment.
Name of board.
Term of office.

Governor *ex-officio* member
of board.

Vacancies.

Removals.

2. Before entering upon the discharge of their duties, each of the said commissioners shall take and subscribe before the secretary of state, who shall file the same in his office, the constitutional oath of office. The said commissioners shall have power to appoint a secretary, not of their number, whose duties they may prescribe and whose salary they may establish and determine.

Ibid § 2.
Oath of office.

Secretary.

3. The said commissioners, by one of their number, or by their secretary, shall, at least once in each year, visit and examine into the condition of each and every of the city and county poor-houses, county jails, or other places for the detention of criminals or witnesses; and the said board, or a majority thereof, with their secretary, shall, at least, once in each year, visit and examine the reform school, state prison, Detroit house of correction, and state and county asylums for the insane, and the deaf, dumb, and blind, and for the purpose of ascertaining the actual condition of the institutions by them or by either of them visited, the method of instruction, government, or management therein pursued, the official conduct of the superintendents or other officers and employes in charge thereof, or connected therewith, the condition of the buildings, grounds or other property thereunto belonging, and the facts as to all

Ibid § 3.
Duties of com-
missioners
relative to ex-
amination of
poor-houses,
etc.

* Vol. 2 of Howell's Annotated Statutes being in press we cite from the act.

other matters in any manner pertaining to the usefulness and proper management of the institutions, poor-houses, and jails above named. They, or either of them, and their secretary, shall have free access thereto at any and all times, and shall have authority to administer oaths and examine any person or persons in any way connected with or having knowledge of the condition, management, and discipline of such institutions, jails, or poor-houses, as to any matters or inquiries not contrary to the purposes or provisions of this act.

Ibid § 4.
as amended
1873, No. 64.
Compensation,
warrant.
Expenses. 4. The said commissioners shall receive no compensation for their time or services, except as hereinafter particularly provided; but the actual expenses of each of them, while engaged in the performance of their duties under this act, and any actual outlay for stationery, office-rent, or any necessary aid or assistance required in examinations or investigations, on being fully stated in account and verified by the affidavit of the commissioner or commissioners making the charge, or the affidavit of their secretary, and approved by the governor, shall be paid quarterly by the state treasurer, on the warrant of the auditor general, out of any money in the treasury not otherwise appropriated; and the secretary of said board shall be paid in like manner, *provided*, that the entire expense of said board or commission, and the salary and traveling expenses of their secretary shall not exceed the sum of five thousand dollars per annum, exclusive of the sum mentioned in section seven of this act.

Ibid § 5.
as amended
1873, No. 64.
Members of
board and
secretary not
to be interest-
ed in contract
for building,
etc.
No officer eli-
gible to office
of commis-
sioner. 5. No member of said board, or their secretary, shall be either directly or indirectly interested in any contract for building, repairing, or furnishing any institution, poor-house, or jail, which by this act they are authorized to visit and inspect; nor shall any officer of such institution, jail, or poor-house be eligible to the office of commissioner, hereby created.

Ibid § 6.
Biennial re-
port. 6. On or before the first day of October, in the year eighteen hundred and seventy-two, and in each second year thereafter, the said board shall report in writing to the governor, fully, the result of their investigations, together with such other information and recommendations as they

may deem proper, including their opinions and conclusions as to the necessity of further legislation to improve the condition and extend the usefulness of the various state, county, and other institutions by them visited; and the said commissioners, or either of them, shall make any special investigation into alleged abuse in any of the institutions which by this act they are authorized to visit, whenever the governor shall so direct, and report the result thereof to him at such reasonable time as he shall prescribe. And whenever any abusive treatment of those confined in any of said institutions shall come to the knowledge of said commissioners, which, in their opinion, requires immediate attention and redress, they shall forthwith report the facts of such abusive treatment to the governor, with such recommendations for the correction of the same as they shall deem proper.

Special investigation report and recommendations.

7. And the said board, in addition to the duties above prescribed, shall make a thorough examination of all the penal, criminal, or other laws of the state, relating to the penal or reformatory institutions by them to be visited, or in any wise relating to the custody and punishment of criminals, and the care and confinement of the county poor and pauper insane, for the purpose of a revision of such laws by the legislature, at the first regular session following the passage of this act; and to accomplish this end, said board shall collect together all acts and parts of acts in any manner appertaining to the control, punishment, and reformation of criminals, and to the care and custody of the county poor and pauper insane, and shall report the same fully to the governor, on or before November first, eighteen hundred and seventy-four, together with such revision, amendments, and suggestions for the improvement thereof as to such board shall be deemed necessary and expedient; the report thus made to be submitted to the legislature by the governor. The secretary of state is hereby required to furnish said board with so many copies of the statutes and laws, as in the judgment of the governor may be required in the accomplishment of said work. And said board, for the time actually required in the discharge of the duty imposed by this section shall be entitled to demand and receive such reasona-

Ibid § 7, as amended 1873, No. 64. Examination of law relating to institution.

Collection and revision of laws.

Secretary of state to furnish copies.

Compensation of board.

ble compensation as shall be approved by the governor, not exceeding the sum of two thousand dollars, which shall be paid in the manner heretofore provided for the payment of their actual traveling and other necessary expenses.

8. Nothing in this act shall be construed as impairing the authority or interfering with the duties of the board of inspectors of the state prison and the board of control of the reform school, or with the duties of the board of control, trustees, commissioners, or inspectors of any other charitable, penal, or reformatory institution of the state.

*Ibid § 8.
Construction
of this act.*

9. Whenever the governor shall deem it advisable and expedient to obtain information in respect to the condition and practicable workings of charitable, penal, pauper, and reformatory institutions in other states, he may authorize and designate any member of said board, or the secretary thereof, to visit such institutions in operation in other states, and by personal inspection to carefully observe and report to said board on all such matters relating to the conduct and management thereof, as may be deemed to be interesting, useful, and of value to be understood in the government, and discipline of similar institutions in this state.

*Ibid § 9.
Amendment
of 1873, No. 64.
Visiting of
similar insti-
tutions for the
purpose of
gaining infor-
mation.*

10. The governor may appoint one or more suitable females, who shall, in behalf of said board, personally visit and inspect such of the aforesaid state or county institutions as said board shall designate, and inquire into the condition and treatment of the inmates therein, and especially investigate the provision made for women, and children of tender years, with the method of instruction, and the means used for their cure or reformation. Said female visitors shall receive no compensation for their time or services; but the actual traveling expenses of each of them, verified as heretofore provided for the accounts of members of this board, and approved by the governor, shall be paid in the same manner, and out of the moneys provided for the expenses of said board. Said female visitors shall from time to time report to the board the results of their investigation.

*Ibid § 10.
Amendment of
1873, No. 64.
Women to be
appointed to
make inspec-
tion.*

11. All educational, charitable, reformatory, and penal institutions supported wholly or in part, by the state, shall be known as state institutions.

*Howell's Annotated
Statutes, 1882, § 412.
State institutions.*

12. The board of each state institution shall, by the first day of November preceding the regular sessions of the legislature, make out and present to the governor a detailed statement of the operations of the institutions for the two fiscal years closing on the thirtieth day of the preceding September, which shall include the report of the superintendent, warden, or other proper chief officer, for the same period, and a report of the treasurer of all receipts and disbursements made during the same period, which report shall be furnished the state printer for publication by the first day of November of the year when made. Such reports shall show at the time of making the same, in detail, the number and names of the various professors, superintendents, officials, and all other regular employes, and the wages or salary paid to each, and what, if any, other emoluments are allowed, and to whom. * * *

13. The board of each state institution shall cause a full and accurate inventory, in duplicate, to be taken at the close of its fiscal year next preceding the regular biennial session of the legislature, by the officer in charge, which shall specify the number of acres of land and the value thereof, the number, kind, and value of buildings, the various kinds of personal property and the value thereof, which inventory shall be signed by the officer making the same, and certified as correct by the board for which it is made; one copy of which shall be made in a proper record book to be kept for that purpose in the institution, and the other shall be filed in the office of the secretary of state by the first day of November of the year when made. Any board of any state institution may in its discretion cause such property to be appraised on oath, by two disinterested and competent appraisers, to be appointed for that purpose by the board, and a summary of each inventory made shall be published in the biennial report.

14. Every educational, charitable, penal and reformatory institution, shall, in proper books for that purpose, keep a regular account of all moneys received and disbursed, and the receipts from and expenditures for and on account of each department of business, or for the construction of buildings, or the improvement of the premises; and in those institutions where farming and gardening opera-

§ 413.
Report to gov-
ernor.

§ 414.
Inventory,
how made.

§ 415.
Record of re-
ceipts and ex-
penditures,
how kept.

tions are carried on, the accounts shall be so kept as to show, as near as practicable, the cost of carrying on the farm or garden and the quantity and value of the productions of the same, with the cost of live stock raised or fattened for the use of the institution, and the quantity and value thereof, and where manufacturing operations are carried on, the cost and result of each separate branch of manufacture, and the quality and value of all manufactured articles sold or used in the institution, so as to clearly exhibit the receipts and expenditures in each department of business carried on in the institution, and the cost of educating and maintaining each student or inmate therein. The accounts of receipts and disbursements in all state institutions shall conform as near as may be practicable to a uniform system, and to accomplish this result the auditor general is authorized to prescribe such a system of accounts as he shall deem proper for said institutions, which shall secure as near as may be such uniformity.

15. The accounts of members of boards of state institutions for official expenses and services, or either, where allowed by law, shall first be certified to be correct by the board to which the member belongs, and then shall be audited by the board of state auditors and paid from the general fund.

§ 416.
Accounts to
be certified
and audited.

16. The boards of state institutions shall, in their biennial reports, recommend what amounts in its opinion is needed for the next two years for ordinary current expenses and for special purposes by the institution so reporting, with the reasons for such recommendations. The boards of charitable, penal and reformatory institutions, before determining on such proposed recommendations, shall submit the same in writing to the board of corrections and charities for its opinion thereon, which last named board shall visit such state institutions in the month of July, August, or September of the year when such report is made and investigate the condition and needs of the same, consider the proposed appropriations and shall make a speedy report in writing to the board of the institution examined, giving its opinion of the proposed appropriations, and the board of such institution shall in its biennial report show to

§ 417.
Board to re-
commend
amounts of
appropriations
needed.

Recommendations to be submitted to board of corrections and charities.

Board to visit institutions.

what extent, in the opinion of said board of corrections and charities, such appropriations should be made.

17. Before the board of any charitable, penal and reformatory institution shall determine on the plan of any building for school purposes, living rooms, work-rooms, or sleeping rooms for inmates, or on any system of sewerage, ventilation or heating, which have been authorized by the legislature to be constructed, such plans shall be submitted to the board of corrections and charities and the state board of health for examination and opinion thereon; and the board so submitting such plans shall in its biennial report show to what extent they were approved by the boards so examining them. It shall be the duty of said state boards to visit said penal, charitable and reformatory institutions when necessary to make the examinations herein required, and their official expenses necessarily incurred shall be audited by the board of state auditors and paid from the general fund.

§ 418.
Plans for
buildings, to
whom sub-
mitted.

18. The asylum for the insane located at Pontiac shall be known as the eastern Michigan asylum, and the asylum located at Kalamazoo shall continue to be known as the Michigan asylum for the insane. The said asylums shall each be placed under the charge of separate board of trustees.

§ 1879.
Eastern asy-
lum known as
eastern Mich.
asylum,
Michigan asy-
lum at Kala-
mazoo.
Separate boards.

19. The district of the eastern Michigan asylum shall be composed of all counties lying east of the meridian line, or traversed by that line, excepting the counties of Jackson, Mackinaw, and Chippewa. The district of the Michigan asylum for the insane shall be composed of the remaining part of the state.

§ 1880.
Michigan asy-
lums, districts.

20. The board of trustees of the Michigan asylum for the insane shall consist of six, and be appointed and hold their offices in accordance with the laws heretofore enacted organizing and regulating that institution.*

§ 1881.
Board of trus-
tees of Michi-
gan asylum.

21. The governor, on or before the completion of the eastern Michigan asylum, shall appoint six trustees, who shall constitute the board for said asylum, whose terms of office shall commence within thirty days of such appointment and continue as follows: two until the

§ 1882.
Board of trus-
tees of east-
ern asylum.

* Term of office and appointment same as § 1883 infra.

first day of January, eighteen hundred and seventy-nine, two until the first day of January, eighteen hundred and eighty-one, and two until the first day of January, eighteen hundred and eighty-three, and until their successors are appointed and qualified.

22. The governor by and with the advice and consent of the senate, shall, during the session of the legislature, in the year eighteen hundred and seventy-nine, appoint two trustees for the eastern Michigan asylum, who shall hold their office six years, and until their successors are appointed and qualified; and at each succeeding session of the legislature there shall be appointed in like manner two trustees for said asylum, who also shall hold their office six years, and until their successors are appointed and qualified.

§ 1883.
Board of trustees of eastern asylum.

23. The governor shall have power, and it shall be his duty, whenever any vacancy shall occur in said boards, by death, removal or otherwise, to appoint such suitable person or persons to fill such vacancy, who shall hold their office until the next session of the legislature, and until such vacancy shall be filled as aforesaid. The government and sole and exclusive control of the Michigan asylums for the insane, shall be vested in said boards of trustees, and two of each board shall reside within three miles of their respective asylums.

§ 1884.
Vacancies in boards.

Government, etc., vested in board.

24. Said boards shall have the general direction and control of all the property and concerns of the institution [institutions] not otherwise provided for by law, and shall take charge of their general interests, and see that their designs be carried into effect, and everything done faithfully according to the requirements of the legislature, and the by-laws, rules and regulations of the asylums.

§ 1885.
General powers of boards.

25. The boards of trustees shall severally appoint a medical superintendent, who shall be a well educated physician, experienced in the treatment of the insane; and a treasurer, not one of their own number, who shall give bonds for the faithful performance of his trust in such sum and with such sureties as the auditor general of the state shall approve. They shall also appoint, upon the nomination of a medical superintendent, a steward, chaplain

§ 1886,
as amended
1883, No. 43.
Officers appointed by board.

and a matron, and also in like manner an assistant medical superintendent and three assistant physicians. All medical officers shall constantly reside in the asylums.

26. The trustees of the asylum shall receive no compensation for their services, but shall receive their actual and reasonable traveling expenses, to be paid by the state treasurer on the warrant of the auditor general, on the rendering of their accounts, verified by their oaths, respectively, out of any money to the credit of the general fund not otherwise appropriated. § 1922.
Compensation
of trustees.

27. The board of trustees shall severally from time to time determine the annual salaries and allowances of the officers, and such salaries shall not exceed in the aggregate the sum of ten thousand dollars for any one year. § 1887,
as amended,
1883, No. 43,
§ 1.
Salaries of
officers.

28. The salaries of the officers of the asylums aforesaid shall be paid quarterly, on the first days of January, April, July, and October in each year, by the treasurer of the state on the warrant of the auditor general, out of any moneys belonging to the general fund, to the treasurer of the asylum, on his presenting a bill of particulars signed by the steward and certified by the medical superintendent. § 1888.
Payment of
salaries.

29. The trustees may take and hold in trust for the state, any grant or devise of land or any donation or bequest of money, or other personal property to be applied to the maintenance of insane persons and the general use of the asylums. § 1889.
Trustees may
hold property
in trust.

30. The treasurer and officers aforesaid, before entering upon their respective duties, shall severally take the oath prescribed by the constitution. § 1890.
Official oath.

31. The trustees are hereby directed and empowered to establish such by-laws as they may deem necessary and expedient for regulating the appointment and duties of officers, attendants, and assistants, for fixing the conditions of admissions, support, and discharge of patients, and for conducting in a proper manner the business of the institution; also, to ordain and enforce a suitable system of rules and regulations for the internal government, discipline, and management of the asylums. § 1891.
Trustees may
establish by-
laws.

32. The medical superintendent shall be the chief executive

§ 1892. officer of the asylum. He shall have the general
Powers and duties of the medical superintendent. superintendence of the buildings, grounds, and farm, together with the furniture, fixtures, and stock; and the direction and control of all persons therein, subject to the laws and regulations established by the trustees. He shall daily ascertain the condition of all the patients, and prescribe their treatment in the manner directed in the by-laws. He shall have the nomination of his co-resident officers, with power to assign them their respective duties, subject to the by-laws; also to appoint, with the approval of the trustees, such and so many other assistants and attendants as he may think necessary and proper for the economical and efficient performance of the business of the asylum, and to prescribe their several duties and places, and to fix with the approval of the trustees, their compensation, and to discharge any of them at his sole discretion; but in every case of discharge he shall forthwith record the same with the reasons under an appropriate head, in one of the books of the asylum. He shall also have the power to suspend until the next monthly meeting of the trustees, for good and sufficient cause, a resident officer; but in such case he shall forthwith give written notice of the fact, with its causes and circumstances, to one of the trustees, whose duty thereupon shall be to call a special meeting of the board to provide for the exigency. He shall also, from time to time, give such orders and instructions as he may judge best calculated to ensure good conduct, fidelity and economy in every department of labor and expense; and he is authorized and enjoined to maintain salutary discipline among all who are employed by the institution, and to enforce strict compliance with such instructions, and uniform obedience to all the rules and regulations of the asylum. He shall further cause full and fair accounts and records of all his doings, and the entire business and operations of the institution, to be kept regularly from day to day in books provided for that purpose, in the manner and to the extent prescribed in the by-laws; and he shall see that all such accounts and records are fully made up to the last day of September immediately preceding the meeting of the legislature, and that the principal facts and results, with his report thereon, be at that time presented to the trustees. The assistant medical super-

Duties of assistant.

intendent shall perform the duties and be subject to the responsibilities of the medical superintendent in his sickness or absence.

33. The officers of the asylums and all attendants and assistants actually employed therein, during the time of such employment, shall be exempt from serving on juries, from all assessment for labor on the highways, and, in time of peace, from all service in the militia; and the certificate of the superintendent shall be evidence of the fact of such employment.

§ 1893.
Officers, etc.,
exempt from
serving on
juries, etc.

34. The trustees shall keep in a bound book, to be provided for that purpose, a fair and full record of all their doings, which shall be open at all times to the inspection of the governor of the state, and all persons whom he, or either house of the legislature, may appoint to examine the same.

§ 1894.
Record of the
doings of the
trustees.

35. The trustees shall maintain an effective inspection of the asylum, a committee for which purpose shall visit it once every month, a majority once every quarter, and the whole board once a year, at the times and in the manner prescribed in the by-laws. In a book kept by the board of trustees for this purpose, the visiting trustee or trustees shall note the date of each visit, the condition of the house, patients, etc., with remarks of commendation or censure, and all the trustees present shall sign the same. The general result of these inspections, with suitable hints, shall be inserted in the annual report, detailing the past year's operations, and actual state of the asylum, which the board shall make to the legislature in the month of January, in each alternate year, accompanied with the reports of the medical superintendent and treasurer.

§ 1895.
Inspection of
asylum by
trustees.

36. It shall be the duty of the medical superintendent to admit any of the board of trustees into every part of the asylum, and to exhibit to him or them on demand, all the books, papers and accounts, and writings belonging to the institution, or pertaining to its business, management, discipline or government, also to furnish copies, abstracts and reports whenever required by the board.

§ 1896.
Board of trustees
to be
admitted to
every part of
the asylum,
etc.

37. The treasurer shall have the custody of all moneys,

§ 1897.
Treasurer,
powers and
duties.

bonds, notes, mortgages, and other securities, and obligations belonging to the asylum. Said moneys shall be disbursed only for the uses of the asylum, and in the manner prescribed in the by-laws, upon the written order of the steward, countersigned by the medical superintendent, specifying the object of the payment. He shall keep full and accurate accounts of the receipts and payments, in the manner directed in the by-laws, and such other accounts as the board of trustees shall prescribe. He shall further render an account of the state of his books, and of the funds and other property in his custody, whenever required so to do by the board of trustees.

§ 1898.
Vested with
powers of
superinten-
dents of poor.

38. The treasurer of the asylum shall be vested with the same powers, rights, and authority which are now by law given to superintendents of the poor in any county or town of the state, so far as may be necessary for the indemnity or benefit of the asylum, and for determining the settlement of any insane person that may be sent to the asylum by an order of a judge of probate, and also for the purpose of compelling a relative or committee to defray the expense of an insane person's support in the asylum, and reimburse actual disbursements for his necessary clothing and traveling expenses, according to the by-laws of the institution; also for coercing the payment of similar charges when due, according to said by-laws, from any town, city, or county that is liable for the support of any insane person in said asylum. Said treasurer is also authorized to recover, for the use of the asylum, any and all sums which may be due upon any note or bond in his hands belonging to the asylum; also any and all sums which may be charged and due according to the by-laws of the asylum; also any and all sums which may be charged and due according to the by-laws of the asylum, for the support of any patient therein, or for actual disbursements made in his behalf, or for necessary clothing and traveling expenses, in an action to be brought in said treasurer's name as treasurer of the asylum, and which shall not abate by his death or removal, against the individual, town, city or county legally liable for the maintenance of said patient, and having neglected to pay the same when demanded by the treasurer; in which action the declaration may be in a

general *indebitatus assumpsit*, and judgment shall be rendered for such sum as shall be found due, with interest from the time of demand made as aforesaid. Said treasurer may also, upon the receipt of the money due upon any mortgage in his hands belonging to the asylum, execute or release and acknowledge full satisfaction thereof, so that the same be discharged of record.

39. The steward, under the direction of the medical superintendent, shall make all the purchases for the asylum, and preserve the original bills and receipts thereof, and keep full and accurate accounts of the same, and copies of all orders drawn by himself upon the treasurer. He shall also, under like direction, make contracts in the superintendent's name with the attendants and assistants, and keep and settle their accounts. He shall also keep the accounts of the support of patients, and expenses incurred in their behalf, and furnish the treasurer every month with copies of such as fall due. He shall also be accountable for the careful keeping and economical use of all furniture, stores, and other articles provided for the asylum.

§ 1899.
Steward, powers and duties.

40. As soon as the eastern Michigan asylum shall be ready for the admission of patients, the board of trustees shall cause notice thereof to be published for two weeks in some paper of the state, and four copies sent to the clerk of every county, who shall transmit copies thereof to the superintendents of the poor of said county by mail. A circular from the medical superintendent shall accompany said notice to each county clerk, and to the superintendents of the poor.

§ 1900.
Notice when eastern asylum ready for admission of patients.

41. The governor shall appoint, by and with the advice and consent of the senate, three suitable persons who shall constitute a board of commissioners for the purpose of selecting a site for an additional asylum for the insane. The persons thus appointed shall be subject to removal by the governor, and should any vacancy occur in said board from death, resignation, or otherwise, the governor shall fill the same by appointment; such appointment, however, to be subject to rejection or ratification by the senate of the session of the legislature following such appointment.

§ 1931.
Appointment of board of commissioners to select site.

42 The commissioners shall select and purchase or receive by donation, within six months from and after the approval of this act, in a healthy, easily accessible part of the state, as a site for the asylum, a tract of land containing not less than two hundred acres, which shall possess a sufficient supply of living water for all the purposes of such an institution, and also to furnish proper facilities for drainage.

43. The deeds for such site shall be duly executed to the people of this state and delivered to the auditor general, and the state treasurer thereupon is hereby directed to pay, on the warrant of the auditor general, to such grantor, of whom such site shall be purchased, such sums of money as may be required to pay for the site.

44. After the selection and purchase of such site, the governor shall appoint two persons, who shall, with the three persons appointed by the governor under the provisions of section one of this act, constitute a board of commissioners, whose duty it shall be to procure and adopt plans, specifications, and estimates for an insane asylum, and to erect and construct the same; *provided, however,* that the entire cost of said asylum shall not exceed, when completely finished, roads, fences and outbuildings, the sum of four hundred thousand dollars.

45. Upon the adoption of plans and specifications by said board they shall advertise for a time, not less than six weeks, in such papers as they may select in this state, for proposals for constructing said asylum, in accordance with the plans and specifications. All contracts for labor or materials to be used in the erection and construction of the buildings provided for by this act, requiring an expenditure of more than five hundred dollars, shall be let to the lowest responsible bidder or bidders; the advertisement thus provided for to specify the time and place where the bids or proposals made in pursuance thereof shall be opened. All bids or proposals thus made shall be sealed, and shall not be opened at any time or place other than that designated in the advertisement. All or any bids or proposals received by said board may be by them rejected, and whether accepted or rejected shall, after decisions thereon by said board, be deposited in the office of the secretary of state.

46. In letting contracts said board shall not obligate the state to pay to any contractor any money other than § 1836. Letting contracts, etc. that to which such contractor may be justly entitled by reason of labor or materials already furnished and supplied, and in no event shall more than seventy-five per cent. of the amount called for in any contract be paid to the contractor named therein before the completion of his contract and its acceptance by said board; *provided*, that every contractor performing service or work, or furnishing materials under this act, shall enter into such bonds, with sureties, for the proper performance of his contract, as shall be required by the board of commissioners.

47. The said board of commissioners shall appoint some proper person, not of their number, to superintend, § 1837. Appointment of superintendent and secretary. under their direction, the erection of the asylum provided for in this act, and shall also appoint a secretary, not of their number, whose duties shall be by them prescribed. Such superintendent and secretary thus Compensation. appointed shall each receive for his services a reasonable compensation, to be established by the board and approved by the governor, and before entering upon the discharge of his duties, shall each take the oath prescribed by the constitution, and give bond for the faithful performance of the duties Bond. of his office in the penal sum of ten thousand dollars.

48. Each of the members of said board shall be entitled to receive his actual traveling expenses, and the sum § 1838. Pay of board. of three dollars per day for the time actually spent in the discharge of his duties under this act.

49. And there is hereby appropriated, for the purpose of carrying out the provisions of this act, the sum of four § 1839. Appropriation. hundred thousand dollars, and the same shall be incorporated in the state tax as follows, to wit: for How assessed. the year one thousand eight hundred and eighty-one, fifty thousand dollars; for the year one thousand eight hundred and eighty-two, the sum of one hundred and fifty thousand dollars, and for the year one thousand eight hundred and eighty-three the sum of two hundred thousand dollars; and the sums when collected shall be placed by the auditor general to the credit of said asylum fund, and may be drawn by the treasurer of said commissioners upon warrants made by their secretary, and approved by the commissioners.

50. It shall be the duty of the secretary of said commissioners to render, quarter-yearly, to the auditor general, accounts current of all cash transactions, and all moneys received, with the proper vouchers; and no money shall be drawn by virtue of this act by said commissioners, unless they shall have first filed with the auditor general an estimate and statement showing the purpose for which such money is required; and also have made the quarter-yearly account of all moneys previously drawn.

51. Said commissioners, before they enter upon the duties of their office, shall each take and subscribe the constitutional oath of office and file the same in the office of the secretary of state; and the treasurer of said commissioners shall give his bond to the people of this state in the penal sum of twenty thousand dollars, with two or more sufficient sureties approved by the governor, conditioned for the faithful performance of the duties required of him, and to properly account for all moneys received by him under this act.

52. The sum of forty thousand dollars, or so much thereof as may be needed for purchase of a site and procuring plans for such asylum, and for such other purposes as may be approved by the governor, is hereby appropriated from the state treasury, to be drawn as above, for the year eighteen hundred and eighty-one, to be reimbursed by funds collected under section nine of this act.

53. Said asylum when completed shall be open to the use of the public upon the same conditions as the Michigan asylum for the insane.

54. The board of control of the northern asylum for the insane is hereby authorized to place the medical administration of the same under the supervision and control of a reputable physician and surgeon of the homœopathic school of medicine.

55. The county superintendents of the poor of any county, or any supervisor of any city or town to which a person who shall become insane may be chargeable, by reason of being a pauper, shall make application to the probate judge of said county, who shall proceed to inquire into the question of the insanity of said person, and for the purpose of such inquiry shall call and may

§ 1940.
Duty of secretary.

§ 1941.
Oath of office of commissioners.

Bond of treasurer.

§ 1942.
Appropriation for site, etc.

§ 1943. To be open same as Michigan asylum.

Act of 1883.
No. 179, § 1.
Med. adminis.

§ 1901.
Proceedings for sending insane persons who are paupers to asylum.

compel the attendance of one or more respectable physicians and such other witnesses as he may deem necessary; and if satisfied of the insanity of said person, said probate judge shall make the same certificate and order for admission into the insane asylum, and the same record and report as are required to be made by section twenty-six* of this act, in the case of an insane person in indigent circumstances.

56. No insane person, or person disordered in his senses, shall be confined in the same room with any person charged with or convicted of crime; nor shall such person be confined in any jail more than ten days.

§ 1902.
Confinement
of insane per-
sons, etc.

57. Any director of the poor, constable, or keeper of a jail, or other person, who shall confine any such insane person in any other manner or in any other place than such as are herein prescribed, shall be deemed guilty of a misdemeanor, and, on conviction, shall be liable to a fine not exceeding two hundred and fifty dollars, or to imprisonment not exceeding one year, or to both, in the discretion of the court before whom [which] the conviction shall be had.

§ 1903.
Penalty for
confining in-
sane persons
contrary to
law.

58. When a person in indigent circumstances, and not a pauper, becomes insane, application may be made in his behalf to the judge of probate of the county where he resides; and said judge of probate shall immediately notify such alleged insane person of such application, and of the time and place of hearing to be held thereon; he shall also call two respectable physicians, and other credible witnesses, and also immediately notify the prosecuting attorney of his county, and the supervisor of the township or ward in which such insane person resides, of the time and place of such hearing, whose duty it shall be to attend the examination and act in behalf of said county; and said judge of probate shall fully investigate the facts in the case, and either with or without the verdict of a jury, at his discretion, as to question of insanity, shall decide the case as to his indigence, but the decision as to indigence shall not be conclusive in such county; and if the judge of probate certifies that satisfactory proof has been adduced, showing him insane, and his estate insufficient to support him and

§ 1904.
How persons
in indigent
circumstances
may be sent
to asylum.

* See § 1904, pl. 58, *infra*.

his family, or if he has no family, himself, under the visitation of insanity, on his certificate under the seal of the probate court of said county, he shall be admitted into the asylum, **Expense.** and supported there at the expense of the county to

which he belongs, until he shall be restored to soundness of mind, if effected in two years, and until otherwise ordered. The judge of probate in such case shall have power to compel the attendance of witnesses and jurors, and shall file the certificates of the physicians, taken under oath, and other papers, in his office, and enter the proper order in the journal of the

Judge to report to supervisors. probate court in his office. The judge of probate shall report the result of his proceedings to the supervisors of his county, if such person belongs to that county, whose duty it shall be, at the next annual meeting thereafter, to raise money requisite to meet the expenses of support accordingly.

59. County and town officers and all persons having charge **§ 1905. Duty of officers.** of insane persons as above, shall see to carrying into effect so much of this act as refers to the removal to and maintenance in the asylum, of said insane persons, within such time and under such regulations as shall be provided by [the] by-laws.

60. The medical superintendent shall make, in a book kept **§ 1906. Minute of date of reception, name, etc., to be made by superintendent.** for that purpose, at the time of reception, a minute with date of same, the name, residence, office, and occupation of the person by whom, and by whose authority each insane person is brought to the asylum; and have all the orders, warrants, requests, certificates, and other papers accompanying him forthwith filed.

61. When an insane person in indigent circumstances shall **§ 1907. Expenses of persons in indigent circumstances paid by the county in certain cases.** have been sent to the asylum by his friends who have paid his bills therein for three months, if the superintendent shall certify he is a fit patient, the supervisors of the county of his residence are authorized and required, upon an application under oath in his behalf, to defray the expenses of his remaining there until otherwise ordered.

62. The rate of charge per week to be paid for the board **§ 1912. Weekly charge for patients.** and necessary treatment of all patients of the asylums, who are residents of this state, shall be annually fixed by the trustees of the asylums, and shall

not exceed the actual cost of support and attendance, exclusive of officers' salaries; but this provision shall not be construed so as to prevent the furnishing extra care and attendance to patients by special contracts with parties chargeable therefor. On the first day of January, in the year eighteen hundred and seventy-nine, and at the close of each succeeding quarter, the medical superintendents of the asylums, shall certify to the secretary of state, the name, age and residence of all patients under treatment, the expense of whose maintenance shall have been exclusively paid by any county for two years continuously, and such patients shall thereafter be maintained by the state. The bills for the maintenance, clothing and other charges of such patients, shall be rendered quarterly to the auditor general in the same manner as bills are rendered to county treasurers for the support of patients at county charge, and shall be paid by the state treasurer to the treasurers of the asylums in which the patients may be, on the warrant of the auditor general, out of any moneys belonging to the general fund.

Quarterly statement to secretary of state of persons to be maintained by state.

Bills rendered quarterly to auditor general.

63. Every insane person supported in the asylum, except those provided for in section thirty-four* shall be personally liable for his maintenance therein, and for all necessary expenses incurred by the institution in his behalf, and the committee, relatives, city, town, or county that would have been bound by law to provide for and support him, if he had not been sent to the asylum, shall be liable to pay the expense of his clothing and maintenance in the asylum, and actual necessary expenses to and from the same; *provided*, that in counties where the distinction between township and county poor is maintained the said expense may be charged by the county to and shall be paid by the township or city in which said indigent insane person had a settlement at the time he was adjudged an indigent insane person.

§ 1913. Insane persons personally liable for their support.

Proviso.

64. The expenses of clothing and maintaining in the asylums a patient who has been received upon the order of any court or officer, shall be paid by the county from which he was sent to the asylum, ex-

§ 1914. Payment for support by counties.

* See § 1912, pl. 62, *supra*.

cept those provided for in section thirty-four.* The treasurer of said county is authorized and directed to pay to the treasurer of the asylum the bills for such clothing and maintenance, as they shall become due and payable according to the by-laws of the asylum, upon the order of the steward; and the supervisors of said county shall annually levy and raise the amount of such bills, and such further sum as will probably cover all similar bills for one year in advance. Said county, however, shall have the right to require any individual, town or city that is legally liable for the support of such patient, to reimburse the amount of said bills with interest from the day of paying the same.

65. Whenever the trustees shall order a patient moved from the asylum to the county whence he came, the § 1915.
Payment of
expenses for
removal from
asylum back
to counties. superintendents of the poor of said county shall audit and pay the actual and reasonable expenses of such removal out of the county poor fund. But if any town or person be legally liable for the support of such patient, the amount of such expenses may be recovered for the use of the county, by such superintendents. If said superintendents of the poor neglect or refuse to pay such expenses on demand, the treasurer of the asylum may pay the same and charge the amount to the said county, and the treasurer of the said county is authorized to pay the same, with interest after thirty days; and the supervisors of said county shall levy and raise the amount as other county charges.

66. Every town or county paying for the support of an insane person in the asylum, or for his expenses in going to or from the same shall have the like rights § 1916.
Right of
counties, etc.,
to recover for
support of
lunatic. and remedies to recover the amount of such payments, with interest from the time of paying each bill, as if such expenses had been incurred for the support of the same at other places under existing laws.

67. No patient shall be discharged without suitable clothing; and if it cannot otherwise be obtained, the steward shall, upon the order of the trustees, furnish it, also § 1918.
Patients not
to be dis-
charged with-
out suitable
clothing, etc. money not exceeding twenty dollars, to defray his expenses until he reaches his friends or can find an opportunity to earn his subsistence.

* See § 1912, pl. 62, supra.

68. All town and county officers sending a patient to the asylum shall, before sending him, see that he is in a state of perfect bodily cleanliness, and is comfortably clothed and provided with suitable changes of raiment as prescribed in the by-laws; and shall provide a female attendant to every female patient unless accompanied by her husband, father, brother, or son.

§ 1819.
Duty of
county off-
cers, etc., as
to condition
of patients
sent to asy-
lums.

69. Whenever an indigent insane person or an insane pauper has been sent to the asylum by order of a probate judge as having gained a legal settlement in some county of this state other than that in which such judge resides, the treasurer of the asylum shall, within ten days after such person has been admitted, give notice to the superintendent of the poor of the county to which it is alleged that such indigent insane person or insane pauper belongs of the facts in the case, and that the expenses of the support of such person shall [will] be charged to that county, unless such superintendents shall within such time as the treasurer may appoint, not less than twenty days nor more than thirty days thereafter, show that such county ought not to be so charged; and on application, said treasurer shall examine the matter, and hear all the testimony in relation thereto, and shall decide the question, which decision shall be final, unless an appeal shall be taken from such de- Appeal.
cision within sixty days to the circuit court of the county so charged by such treasurer with such support, and said court shall have full power to hear, try and determine the matter. The prosecuting attorney of the proper county, on demand of the superintendents of the poor, is hereby authorized to take the appeal.

§ 1920.
Expenses for
support when
residence is
uncertain,
how deter-
mined.

70. In case any county in this state shall neglect or refuse to pay the amount due the asylum for the treatment and maintenance of persons admitted from such county, in accordance with the provisions of this act, it shall be the duty of the medical superintendent to make out a statement of the facts, giving the number of persons, name of each, and number of weeks' treatment and maintenance for which payment is due, and the amount of the same to be verified upon his oath, a copy of which he shall send to the clerk of the county from which such money is due; and if the same shall not

§ 1921.
Provision for
payment of
expenses
when coun-
ties neglect or
refuse to pay.
Notice to
county.

Payment by
state treas-
urer.

be paid within sixty days after giving such notice to the said county clerk, he shall transmit the statement to the auditor general, who shall draw his warrant upon the state treasurer for the amount, together with the interest thereon, to be computed from the time the same became due the asylum, and charge the same back to the said county, to be assessed, collected and returned with and in the same manner that other state taxes are assessed, collected and returned.

71. The superintendents of the poor of each county in the state shall transmit to the secretary of the board of state charities on the first day of July in the year eighteen hundred and seventy-seven, the name and age of each insane person in the poor-house of the county or elsewhere, receiving county aid in any form. Every county, city, or town officer to whom application for aid in behalf of any insane person shall be made after the date before mentioned, shall at once report the name and age of such insane person to the secretary of the board of state charities. The medical superintendents of the asylum shall report quarterly to the secretary of the board of state charities the name and age of all patients supported at state or county charge. After the date above mentioned all the officers named in this section shall report to the secretary of the board of state charities the date and circumstances attending the discharge, removal, elopement, or death of all insane persons receiving aid or supported at county or state charge. The board of state charities shall provide for the careful registry by their secretary of all facts communicated in compliance with the requirements of this section.

72. When an indigent insane person or an insane pauper shall be brought before a judge of probate for examination, as provided in sections twenty-three and twenty-six* of this act, such judge shall also inquire into the settlement of such insane person, and if it shall appear that such insane person is in indigent circumstances and has not sufficient means for his support, or is a pauper and has not a legal settlement in the county of such judge, but has gained a legal settlement in some other county of this state, according to the provisions of sections eighteen

§ 1923.
Superintend-
ents of the
poor, etc., to
report to sec-
retary of
board of state
charities.

§ 1924.
Judge of pro-
bate to inquire
into legal
settlement of
indigent in-
sane, etc.

* See § 1901 and 1904.

hundred and forty-eight and eighteen hundred and forty-nine of the compiled laws, said judge shall make two statements of his proceedings and decision, and shall certify to the correctness thereof under the seal of the probate court, and transmit one copy, with the other proceedings, to the treasurer of the asylum, who shall preserve the same in his office, which statement shall be admitted as *prima facie* evidence of the matter therein stated in any hearing that may be had before said treasurer in relation thereto, and shall file the other copy with the county clerk of his county. The probate judge shall have the same powers in determining the settlement of any [an] indigent insane person or an insane pauper as is conferred upon him in section twenty-six* of this act. If, on the examination herein provided for, it shall satisfactorily appear that the said insane person, indigent or pauper, has not acquired a legal settlement in any county in this state, the judge of probate shall forward a certified copy of all the testimony in the case to the secretary of state. The bills for the maintenance of such insane person shall be rendered quarterly to the auditor general, at the same time and in the same manner as bills are rendered to county treasurers, and shall be paid to the treasurer of the asylum in which the insane person is maintained by the state treasurer, on the warrant of the auditor general, out of any moneys belonging to the general fund. It shall be the duty of the secretary of state to ascertain, if possible, through the testimony filed or otherwise, the actual residence of such insane person, return him thereto, and request reimbursement for all expenses incurred by the state, the expenses attending such return to be settled by the board of state auditors.

Statement relative thereto.

When legal settlement has not been acquired.

Payment of bills.

73. It shall be the duty of the board [boards] of trustees to meet jointly once or more every year at each asylum, to adjust all questions that may arise pertaining to said institutions, and the said joint board acting under such rules and by-laws as they may adopt, by and with the advice and consent of the medical superintendents, may transfer patients from the Michigan asylum for the insane to the eastern Michigan

§ 1926.
Joint meetings of board of trustees.

Transfer of patients.

* See § 1904, pl. 58, *supra*.

asylum, and from the eastern Michigan asylum to the Michigan asylum for the insane, if for any cause it may become necessary or desirable.

74. The terms "insane or insane persons" as used in this act, include every species of insanity, and extend to every deranged person, and to all of unsound mind, other than idiots; and the word "oath" includes "affirmation;" "institution" may mean either the Michigan asylum or the eastern Michigan asylum, and "institutions" means both of the said asylums. A word denoting the singular number is to include one or many; and every word importing the masculine gender may extend to and include females. Every provision of this act applies equally to the Michigan asylum for the insane and the eastern Michigan asylum, excepting where one or the other are especially designated.

§ 1927.
Certain terms
used, what to
include.

75. After the eastern Michigan asylum shall have been opened for patients, and room shall be sufficient for all the insane wards of the state, then and thereafter it shall be illegal for county superintendents of the poor or for any other authority whatever to consign to the county almshouses any insane person.

§ 1928.
When eastern
asylum shall be
opened, no insane
to be confined in
almshouses.

76. All the insane inmates of the soldiers' home at Detroit, or of any county jail of this state, who have been soldiers or marines of the United States to the credit of the state of Michigan, and who have not been convicted of any crime, and all such soldiers or marines within this state who are under treatment in the asylum at Kalamazoo, or may hereafter become insane, may, by the order of the state military board, be transferred, under the same rules and regulations as govern county patients, to the insane asylum at Kalamazoo, or to the insane asylum at Pontiac, and there be provided for at the expense of the state.

§ 1944.
Transfer of
insane sol-
diers, etc., to
asylum.

77. The bills for the maintenance of such insane persons shall be rendered quarterly to the auditor general, at the same time and in the same manner as bills are rendered to county treasurers, and shall be paid to the treasurer of the asylum by the state treasurer, on the warrant of the auditor general, out of any moneys belonging to the general fund. * * * *

§ 1945.
Bills for main-
tenance, how
paid.

78. Any will by which any real or personal estate may be directed to be sold or converted into money and the proceeds paid over to this state, or to the treasurer thereof, in trust for any insane person, and any will bequeathing any money to this state or the people thereof in trust for any insane person, is hereby declared to be legal and valid, as to such trust, and the trust so reposed and declared shall be accepted subject to the conditions, restrictions, and limitations, contained in this act.

§ 1952.
Wills making
state trustee
for insane per-
son legalized.

79. Such will shall be executed as prescribed by the laws relating to wills devising real or personal estate, and the validity thereof as to the persons who may make the same, and the mode and manner of execution shall be determined by the same rules as wills devising real or personal estate are determined or decided. The person in trust for whom such devise or bequest shall have been made, shall be a [an] insane person, and at the time such will shall become operative, shall be confined in a state or county asylum, county jail, work-house, poor-house, or other place controlled or managed by state, county, city, town, or other public authority. No trust shall be accepted under this act, unless the moneys so bequeathed, or the proceeds of sale of real or personal estate so devised or bequeathed, shall amount to at least five hundred dollars.

§ 1953.
How executed,
and rules for
determining
validity, etc.

Person must
be insane and
confined.

Condition of
acceptance of
trust.

80. It shall be the duty of any officer with whom any will containing such devise or bequest shall be filed, after being informed of the death of the testator, and of any officer to whom any will containing any such devise or bequest shall be presented for probate, immediately thereafter to notify the state treasurer and the attorney-general of such filing or presentation, and it shall be the duty of the attorney-general upon being so notified, or upon being otherwise informed of the execution of any such will, and of the death of the testator, to institute and carry on all necessary suits and proceedings to secure the payment into the state treasury of all moneys which, under this act and in pursuance of such trust, may be received by the state treasurer.

§ 1954.
Proceedings
upon death of
testator.

81. It shall be the duty of the executor or administrator of such will to pay to the state treasurer, all moneys which may be payable to the state, or the people thereof, as trustee of any such trust, and the said

§ 1955.
Executor or
administrator
to pay moneys
to state treas.

moneys when so received by the state treasurer, shall be placed by him to the credit of the fund to be known as the (naming the insane person) "Insane Trust Fund," and the interest on the same shall be computed annually at the rate of seven per cent., and such interest and trust fund shall be paid out for the benefit of the persons for whom such trust may be created, and as provided by this act.

82. The board of trustees of the Michigan asylum for the insane shall have charge of all persons for whose benefit any such trust shall be created, and of all expenditures payable by such interest or insane trust fund. Any such insane person confined at the

§ 1956.
Board of trustees of Michigan asylum for insane to have charge of such persons.

Michigan asylum for the insane, while the said interest and trust fund shall be sufficient for that purpose, shall be furnished with lodging, board, clothing, medicines, medical, and such other attendance, care, comforts, and conveniences, as are usually, and in accordance with the rules of such asylum, allowed to other patients whose support shall be paid for by private persons, and at the same rate of charges. And said board shall, so far as it may be possible, but within their reasonable discretion, regulate the expenditures on behalf of such insane person, so that the same may be defrayed from the interest authorized to be paid on the principal of the fund so created for his benefit. If the interest shall be insufficient, such expenditures may be made from the principal of the fund. And if any sum may be received from any source for the support and care of such person, the moneys so received shall be first applied to the payment of such expenditure in preference to such interest or trust fund. Should any such insane person be removed from such asylum, by his legal custodian or guardian, while so insane, such expenditure on his behalf shall cease; and such interest or trust fund shall remain unappropriated until such person shall be returned to the asylum, or the same shall be paid out as hereinafter provided by this act.

83. If any person for whose benefit any such trust shall be created, shall be confined in any of the places mentioned in the first section of this act,* other than a state asylum, the board of trustees of the Michigan asylum for the insane shall cause such person to be

§ 1957.
Persons confined in other places to be removed to asylum.

* See § 1952, pl. 78, supra.

removed to said Michigan asylum, and shall there provide for the support of such person, the same as provided by the section in reference to persons confined in said asylum.

84. If any insane person for whose benefit any such trust shall have been created, shall become sane or shall die, the board of trustees of said Michigan insane asylum shall certify to the auditor general and state treasurer that such person has so become sane and is no longer in need of support from such asylum by reason of prior insanity, or is dead; and the state treasurer, upon the warrant of the auditor general, shall pay to such person or persons as may be entitled thereto under the will by which such trust fund has been created, the balance, if any, of principal and interest standing to the credit of such trust fund. And if such will shall not provide for or make any disposition of such fund in such cases, then such moneys shall be paid to the person for whose benefit such fund has been created, if he be living and sane, and if he be dead, then to his legal representative.

85. Immediately upon receipt of moneys into the state treasury under the act, the state treasurer shall notify the auditor general, and board of trustees of the Michigan asylum for the insane, of the amount thereof, and of the name of the person for whose benefit the fund has been created, and all payments from the treasury under the act shall be on the warrant of the auditor general, upon vouchers duly approved by, and filed with the auditor general by the said board of trustees, the same as other moneys are drawn from the treasury by said board of trustees for such asylum.

86. If at any time hereafter any new state insane asylum be constructed by this state, the board of trustees or other governing body, by whatever name called, of such new insane asylum, shall have the same powers and perform the same duties hereby given to and imposed upon the board of trustees of said Michigan asylum, should the person for whose benefit such trust is created be confined in such new asylum, or the confinement of persons from the portion of the state in which he may be an inhabitant, shall be required by law to be in such new asylum.

87. This act shall not be construed to authorize the confine-

§ 1958.
Proceedings
when person
becomes sane
or dies.

§ 1959.
Duty of state
treasurer
upon receipt
of moneys.

§ 1960.
Powers and
duties of
board of trust-
ees of new
state asylum,
in such cases,
should one be
constructed.

§ 1961.
Construction
of act. ment of any person in any insane asylum, except such person be expressly required by law to be so confined, contrary to, and against the wishes of any parent or guardian or other legal custodian of the person of any such insane person, provided said board of trustees shall be satisfied such parent or guardian or legal custodian shall have sufficient pecuniary ability to maintain and support such insane person.

88. The board of corrections and charities are instructed and empowered to locate an asylum for insane criminals in connection with or adjacent to the state house of correction at Ionia, to be known as the Michigan asylum for insane criminals.

Act of 1883,
No. 190, § 1.
Establish-
ment of asy-
lum for insane
criminals.

89. In case there is not sufficient land for the necessities of such asylum available in connection with the state house of correction, the board of corrections and charities is hereby authorized and empowered to purchase a tract of land not exceeding thirty acres. Such land when purchased shall be considered part of the house of correction property, and shall be under the control of the board of managers of that institution.

Ibid § 2.
Power to pur-
chase land.

90. The board of corrections and charities shall procure and adopt plans and specifications, and the board of managers aforesaid shall proceed to erect and construct said asylum in accordance therewith; *provided, however*, that the entire cost of said asylum shall not exceed, when completely finished and furnished with heating apparatus, roads, fences and outbuildings, the sum of sixty thousand dollars.

Ibid § 3.
To adopt
plans.

Cost not to ex-
ceed \$60,000.

91. There is hereby appropriated for carrying out the provisions of this act, the sum of sixty thousand dollars and the same shall be incorporated in the state taxes as follows, to wit: for the year one thousand eight hundred and eighty-three, sixty thousand dollars, this sum to be assessed, levied, and collected in the same manner as other state taxes are by law assessed, levied, and collected, which when collected shall be credited to the general fund to reimburse the same for the amounts drawn therefrom.

Ibid § 4.
Appropriation.

92. All moneys appropriated hereby may be drawn from the state treasury, upon the warrant of the auditor general, in such sums and at such times as shall be

Ibid § 5.
Moneys to be
drawn from

made to appear to him necessary; they shall be expended only for the purpose specified, and their receipt and disbursement shall be accounted for by duplicate vouchers and monthly accounts current.

treasury on
warrant of
auditor gen-
eral.

93. After the completion of said asylum the board of managers aforesaid shall appoint a medical superintendent who shall be a well educated physician experienced in the treatment of the insane. He shall reside in the building and devote all his time to the care and treatment of those confined therein for treatment, shall also have charge of said asylum under the direction of said managers, and shall make all purchases for the support of the same. The board of managers shall likewise appoint a treasurer, not one of their own number, who shall give bonds for the faithful performance of his trust in such sum and with such sureties as the auditor general of the state shall approve. They shall also appoint, upon the nomination of the medical superintendent, one assistant physician and a matron who shall constantly reside in the asylum.

Ibid § 6.
Appointment
of medical su-
perintendent.

His duties.

Treasurer ap-
point. d.

94. The managers shall from time to time determine the annual salaries and allowances of the officers and such salaries shall not exceed in the aggregate the sum of three thousand dollars. The salaries of the officers shall be paid quarterly on the first days of January, April, July and October in each year, by the treasurer of the state on the warrant of the auditor general out of any moneys belonging to the general fund, to the treasurer of the asylum on his presenting a bill of particulars to be signed by the medical superintendent and certified by the president (or resident member) of the board of managers.

Ibid § 7.
Salaries of
officers.

95. The officers aforesaid before entering upon their duties shall severally take the oath prescribed by the constitution.

Ibid § 8.
Oath of
officers.

96. The managers are hereby directed and empowered to establish such by-laws as they may deem necessary and expedient for regulating the appointment and duties of officers, attendants, and assistants, and for conducting in a proper manner the business of the institution; also to ordain a suitable system of rules and regulations for the

Ibid § 9.
By-laws.

internal government and discipline and management of the asylum.

Ibid § 10.
Duties and
powers of the
medical su-
perintendent. 97. The medical superintendent shall be the chief executive officer of the asylum. He shall have the general superintendence of the building, grounds, and farm, together with the furniture, fixtures, and stock, and the direction and control of all persons therein, subject to the laws and regulations, established by the managers; he shall daily ascertain the condition of all the patients and prescribe their treatment in the manner directed in the by-laws; shall also have the nomination of his co-resident officers, with power to assign them their respective duties, subject to the by-laws; also to appoint, with the approval of the managers, such and so many assistants and attendants as he may think necessary and proper for the economical and efficient performance of the business of the asylum, and to prescribe their several duties and places, and to fix, with the approval of the managers, their compensation, and to discharge any of them at his sole discretion, but in every case of discharge he shall forthwith record the same with the reasons under an appropriate head in one of the books of the asylum; he shall also have the power to suspend, until the next monthly meeting of the managers, for good and sufficient reason, a resident officer. He shall also from time to time give such orders and instructions as he may judge best calculated to insure good conduct and economy in every department of labor and expense, and he is authorized and enjoined to maintain salutary discipline among all who are employed by the institution, and to enforce strict compliance with such instructions, and uniform obedience to all the rules and regulations of the asylum. He shall further cause full and fair accounts and records of all his doings to be kept regularly from day to day in books provided for that purpose, in manner and to the extent prescribed in the by-laws, and he shall see that all such accounts and records are fully made up to the last day of September immediately preceding the meeting of the legislature, and that the principal facts and results with his report thereon be at that time presented to the managers. The assistant physician shall perform the duties and be subject to the responsibilities of the medical superintendent in his sickness or absence.

98. The officers of the asylum and all attendants and assistants actually employed therein, during the times of such employment, shall be exempt from serving on juries, from all assessments for labor on the highways, and in time of peace from all service in the militia, and the certificate of the superintendent shall be evidence of the fact of such employment.

*Ibid § 11.
Exemption of
officers from
jury service,
etc.*

99. The managers shall maintain an effective inspection of the asylum at the times and in the manner prescribed in the by-laws. In a book kept by the board of managers for this purpose, the visiting manager or managers shall note the date of each visit, the condition of the house, patients, etc., with remarks of commendation or censure, and all the managers present shall sign the same. The general result of these inspections, with suitable hints, shall be inserted in the annual reports, detailing the past year's operations and actual state of the asylum, which the board shall make to the legislature at each regular session thereof, accompanied with the reports of the medical superintendent and treasurer.

*Ibid § 12.
Duties of
managers.*

*Their annual
report to the
legislature.*

100. It shall be the duty of the medical superintendent to admit any of the board of managers into every part of the asylum, and to exhibit to him, or to them, on demand the books, papers, and accounts, and writings belonging to the institution or pertaining to its business management, discipline, or government, also to furnish copies, abstracts, and reports whenever required by the board.

*Ibid § 13.
Managers to
have access
to the asylum
and all its
property.*

101. The treasurer shall have the custody of all moneys, bonds, notes, mortgages, and other securities and obligations belonging to the asylum. Said moneys shall be disbursed only for the use of the asylum and in the manner prescribed in the by-laws, upon the written order of the medical superintendent, countersigned by the president or resident member of the board of managers. He shall keep full and accurate accounts of the receipts and payments in the manner directed in the by-laws, and such other accounts as the board of managers shall prescribe. He shall further render an account of the same in his books, and of the funds and other property in his custody whenever required to do so by the board of managers.

*Ibid § 14.
Treasurer's
duties.*

102. The treasurer of the asylum shall be vested with the same powers, rights, and authority which are now by law given to superintendents of the poor in any county or town of the state, so far as may be necessary for the indemnity or benefit of the asylum.

*Ibid § 15.
Treasurer's
powers.*

103. All purchases shall be made by the medical superintendent, or under his direction, and he shall preserve the original bills and receipts thereof, and keep accounts of the same and copies of all orders drawn by himself on the treasurer. He shall also make contracts with attendants and assistants, and keep and settle all their accounts. He shall also keep the accounts of the support of patients and expenses incurred in their behalf, and furnish the treasurer with copies of the same. He shall also be accountable for the careful keeping and economical use of all furniture, stores, and other articles provided in the asylum.

*Ibid § 16.
Superintendent's
duties.*

104. The medical superintendent shall make in a book kept for that purpose, at the time of reception, a minute with date of same, of the name, residence, and official position of the person by whom and by whose authority each insane person is brought to the asylum, and have all the orders, warrants, requests, certificates of conviction, and other papers accompanying him forthwith filed.

*Ibid § 17.
Superintendent's
duties.*

105. When a person accused of the crime of murder, attempt at murder, rape, attempt at rape, highway robbery, or arson, shall have escaped indictment or shall have been acquitted upon trial upon the ground of insanity, the court, being certified by the jury, or otherwise, of the fact, shall carefully inquire and ascertain whether his insanity in any degree continues, and if it does shall order such person into safe custody, and to be sent to one of the state asylums for the insane or to the Michigan asylum for insane criminals, after the latter institution is opened for the reception of patients, at the discretion of the court. If any person in confinement, under indictment of [for] the crime of arson, or murder, or attempt at murder, rape, or attempt at rape, or highway robbery, shall appear to be insane, the judge of the circuit court of the county where he is confined shall institute a careful investigation; he shall call two or

*Ibid § 18.
Proceedings
when persons
have escaped
indictment or
have been ac-
quitted on
ground of in-
sanity.*

*Proceedings
when persons
appear insane
who are in
confinement
for certain
crimes.*

more respectable physicians, and other credible witnesses, and the prosecuting attorney to aid in the examination, and if it be deemed necessary to call a jury for that purpose, is fully empowered to compel the attendance of witnesses and jurors. If it is satisfactorily proved that such person is insane, said judge may discharge such person from imprisonment, and order his safe custody and removal to one of the state asylums, or to the Michigan asylum for insane criminals, after the latter institution is open for the reception of patients, at the discretion of such judge, where such person shall remain until restored to his right mind; and then if the said judge shall have so directed, the superintendent of the said asylum shall inform the said judge and prosecuting attorney so that the person so confined may, within sixty days thereafter, be remanded to prison and criminal proceedings be resumed, or otherwise discharged. If any such person be sent to either of said asylums, the county from which he is sent shall defray all expenses of such person while at the asylum for a period of two years, and the expense of returning home to such county, if his discharge is effected during such period; if he shall not be discharged from the said asylum until after his transfer to the state shall have been effected; under the provisions of a subsequent section, the expense of his return to said county shall be paid by the state of Michigan; the county or state may recover the amount so paid from the person's own estate, if he have any, or from any relative, town, city, or county that would have been bound by existing laws to provide for and maintain him elsewhere.

106. If any person in confinement, under indictment for the crime of arson, murder, attempt at murder, rape, attempt at rape, or highway robbery, shall appear to be insane, the judge of the circuit court in which such indictment is pending shall have power summarily to inquire into the sanity of such person, and, for that purpose, may appoint a commission to examine such person and inquire into the facts of his case and report them to the court; and if the said court shall find such person insane, without sufficient mental capacity to undertake his defense, it may in its discretion order the removal of such person to one of the state asylums, or the Michigan asylum for insane criminals,

Expenses of
persons at asy-
lum, by whom
paid, etc.

Ibid § 19.
Idem.

after the latter institution is open for the reception of patients, there to remain until restored to his right mind, when he shall be remanded to prison and criminal proceedings be resumed, or otherwise discharged according to law. The expense of such person's maintenance shall for a period of two years be defrayed by the county from which he came, and until his transfer to state expense shall have been effected as provided for in the next section.

107. The rate of charge per week, to be paid for the necessary treatment of all patients, shall be annually fixed by the board of managers of the asylum, and shall not exceed the actual cost of support and attendance, exclusive of officers' salaries. Two years' continuous residence in the asylum, at the expense of any county shall entitle a patient to state support, and the medical superintendent shall, on the first day of January, April, July, and October of each year, certify to the secretary of state, the name, age, and residence of all patients under treatment, the expense of whose maintenance shall have been thus exclusively paid by any county for two years continuously, and such patients shall thereafter be maintained by the state. In case of the transfer to the Michigan asylum for insane criminals of patients, from either of the existing asylums, or from the northern asylum for the insane, who are or shall be under treatment at county expense, the length of time of such treatment shall be counted.

108. Every insane person supported in the asylum shall be personally liable for his maintenance therein, and for all necessary expenses incurred by the institution in his behalf, and the guardian, relative, city, town, or county that would have been bound by law to provide for and support him, if he had not been sent to the asylum, shall be liable to pay the expenses of his clothing, and maintenance in the asylum, and actual necessary expenses to and from the same.

109. The expenses of clothing and maintaining in the Michigan asylum for insane criminals, a patient who has been received upon order of any court, or officer, shall be paid by the county from which he was sent to the asylum, for a period of two years; likewise

Ibid § 20.
Rate of
charges.

When patient
to be support-
ed by state.

Ibid § 21.
Liability of
persons, etc.,
for support at
asylum.

Ibid § 22.
When county
to pay
expenses.

his actual necessary expenses to and from the same. The treasurer of the said county is authorized and directed to pay to the treasurer of the said asylum, the bills for such clothing and maintenance, as they shall become due and payable, according to the by-laws of the asylum, upon the order of the medical superintendent; and the supervisors of said county shall annually levy and raise the amount of such bills, and such further sum as will probably cover all similar bills for one year in advance. Said county, however, shall have the right to require any individual, town, or city that is legally liable for the support of such patient, to reimburse the amount of said bills with interest.

Court may make an order for reimbursement.

110. Every town, or county paying for the support of an insane person in the said asylum, or for his expenses in going to and from the same, shall have the like rights and remedies to recover the amount of such payment, with interest from the time of paying each bill, as if such expenses had been incurred for the support of the same at other places under existing laws.

Ibid § 23.
Town or county may recover for amounts paid.

111. In case any county in this state shall neglect or refuse to pay the amount due said asylum, for the treatment and maintenance of persons admitted from such county, in accordance with the provisions of this act, it shall be the duty of the medical superintendent to make out a statement of the facts, giving the number of persons, name of each, and number of weeks' treatment and maintenance for which payment is due, and the amount of the same, to be verified upon his oath, a copy of which he shall send to the clerk of the county from which such money is due, and if the same shall not be paid within sixty days after giving such notice to the said county clerk, he shall transmit the statement to the auditor general, who shall draw his warrant upon the state treasurer for the amount, together with the interest thereon, to be computed to the time the same became due the asylum, and charge the same back to the said county, to be assessed, collected, and returned with, and in the same manner that other state taxes are assessed, collected and returned.

Ibid § 24.
When county neglects or refuses to pay, etc.

112. The medical superintendent of the said asylum shall report, quarterly, to the secretary of the board of corrections

Ibid § 25.
Sup't to make
quarterly re-
port. and charities, the names of all persons supported at state or county charge, also the date and circumstances attending the discharge, removal, elopement, or death of all insane persons receiving aid or support at county or state charge.

Ibid § 26.
Transfer of in-
sane crimi-
nals to asy-
lum when
opened. 113. When the Michigan asylum for insane criminals is opened for the reception of patients, the medical superintendents of the Michigan asylum for the insane, and the eastern Michigan asylum, and the wardens of the state prison at Jackson, and house of correction of Ionia, and the superintendent of the Detroit house of correction, shall, with the consent of the board of trustees, or board of inspectors, or managers of their respective institutions, proceed to transfer to the said asylum for insane criminals, all insane criminals or discharged convict insane, found in such institutions. The expense of the maintenance of such patients, shall, from the date of their transfer, be chargeable to the state of Michigan, likewise the expense attending said transfer.

Ibid § 27.
Subsequent
transfers of
insane crimi-
nals. 114. Whenever the physician of [to] the state prison, or the physicians to either of the houses of correction of this state, shall certify to any warden, or other officer in charge that any convict therein is insane, it shall be the duty of said warden, or other officer in charge, to make immediately a full examination into the condition of such convict, and if fully satisfied that he is insane, the said warden, or other officer in charge where said convict is confined, shall forthwith cause such convict to be transferred to the Michigan asylum for insane criminals after such institution shall be opened for the reception of patients, and to deliver him to the medical superintendent thereof, who is hereby required to receive him into said asylum, and retain him there until legally discharged. The expense of such insane convict's maintenance, in the Michigan asylum for insane criminals, shall be charged to the state of Michigan, likewise the expense attending his transfer.

Ibid § 28.
Transfers
from insane
asylums of
certain per-
sons. 115. The medical superintendents of either of the asylums for the insane in Michigan may, with the consent of their respective boards of trustees, make application to the board of corrections and charities for an order for the transfer of any or all criminal insane

persons under treatment in either of said asylums, who have been guilty of an act of homicide previous to admission to the asylum, and whose presence is dangerous to others; likewise all insane persons who have committed any act of homicide while under treatment in either of the asylums, and the board of corrections and charities shall investigate all the facts and report to the governor, who may, in his discretion, order the transfer of such person or persons to the Michigan asylum for insane criminals after such institution shall be opened for the reception of patients. The expense of the main- Expense of maintenance, etc. tenance of such person or persons after such transfer shall be chargeable to the state of Michigan. In case any patient under treatment in either of the state asylums shall at any future time after the organization of the Michigan asylum for insane criminals, commit any act of homicide, or develop unmistakable homicidal tendencies, rendering his presence a source of danger to others, proceedings may be instituted as above. If the transfer of such patient shall be effected the expense of his maintenance from the date of transfer shall be chargeable to the state of Michigan.

116. In case the insanity of any convict shall continue after the expiration of his sentence he shall be retained Ibid § 29. Retention of convicts after expiration of sentence, etc. in said asylum until adjudged by the medical superintendent and board of corrections and charities a fit subject to be discharged. Whenever any convict who shall have been confined in said asylum as a lunatic shall have become restored to reason, and the medical superintendent of said asylum shall so certify When restored to reason. in writing, he shall be forthwith transferred to the house of correction, prison or reformatory from whence he came, and the agent or warden of said prison or reformatory shall receive the said convict into said prison, house of correction, or reformatory. Any convict whose sentence has expired and When insane on expiration of sentence. who is still insane, may be delivered to his relatives or friends who will undertake, with good sureties to be approved by the board of managers, for his peaceful behavior, safe custody, and comfortable maintenance without further public charge.

117. The bills for the maintenance, clothing and other

Ibid § 30.
Rendering of
bills to audi-
tor general.

charges of all state patients shall be rendered quarterly to the auditor general, in the same manner as bills are rendered to county treasurers for the support of patients at county charge, and shall be paid by the state treasurer to the treasurer of the asylum, on the warrant of the auditor general, out of any moneys belonging to the general fund.

118. When a person shall have escaped indictment, or shall have been acquitted of a criminal charge, upon trial, on the ground of insanity, the court, being certified by the jury or otherwise of the fact, shall carefully inquire and ascertain whether his insanity in any degree continues, and if it does, shall order him in safe custody, and to be sent to the asylum. If such person be sent to the asylum, the county from which he is sent shall defray all his expenses while there and of sending him back, if returned; but the county may recover the amount so paid from his estate, if he have any, or from any relative, town, city, or county that would have been bound to provide for and maintain him elsewhere.

§ 1908.
When a per-
son is ac-
quitted of cri-
minal charge
on ground of
insanity.

119. If any person in confinement under indictment, or under sentence of imprisonment, or under criminal charge, or for want of bail for good behavior or keeping the peace, or to appear as a witness, or in consequence of any summary conviction, or by order of any justice, or under any other than civil process, shall appear to be insane, the circuit court commissioner of the county where he is confined, or, if he be absent, the judge of the circuit court shall, upon the application of the prosecuting attorney, institute a careful investigation, call two respectable physicians and other creditable witnesses, whom he is authorized to swear as such; and if it be satisfactorily proved that he is insane, said commissioner or judge may relieve him from such imprisonment, and order his safe custody and removal to the asylum, where [he] shall remain until he is restored to his right mind, and then the superintendent shall inform the said commissioner or judge, and the county clerk and prosecuting attorney of said county, so that the person so confined may, within sixty days thereafter, be remanded to prison and criminal proceedings be resumed or

§ 1909.
When person
confined
under crimi-
nal charge,
etc., appears
to be insane.

otherwise discharged, or, if the time of his sentence shall have expired, he shall be discharged. The provisions of the last preceding section, requiring the county to defray the expenses of a patient sent to the asylum, shall be equally applicable to similar expenses arising under this section and the one next following.

120. If a person imprisoned on attachment, or any civil process, or for the non-payment of a militia fine, becomes insane, the commissioner in the last preceding section of this act, shall institute like proceedings in his case as required in the case provided for in said section; but notices shall be given in such case, by mail or otherwise, to the plaintiff or his attorney, if in the state; and if it shall be proved to the satisfaction of such commissioner that the prisoner is insane, he may discharge him from imprisonment, and order him into safe custody, and to be sent to the asylum; nevertheless, the creditor may renew his process, and arrest again his debtor when of sound mind.

121. Persons charged with misdemeanors, and acquitted on the ground of insanity, may be kept in custody, and sent to the asylum, in the same way as persons charged with crime.

122. A patient of the criminal class may be discharged by order of one of the justices of the supreme court or a circuit judge, if upon due investigation it shall appear safe, legal, and right to make such order.

123. If any person after being convicted of any offense and committed to the state prison or any penal institution of this state, and before the execution in whole or in part of the sentence of this court, shall show symptoms of insanity, the warden shall give notice to the physician thereof and the medical superintendent of the asylum for the insane at Kalamazoo. The physician and medical superintendent aforesaid upon receiving such notice, shall forthwith examine such convict, and if upon such examination they shall be of opinion that said convict is insane, they shall certify the same to the warden of the prison who shall forthwith put such lunatic or insane convict in the prison department prepared for that purpose, and immediately notify the governor of the

§ 1910.
When person
imprisoned on
civil process,
etc., becomes
insane.

§. 1911.
Persons charged with
misdemeanors and
acquitted.

§ 1917.
Who may dis-
charge pa-
tients of a
criminal
class.

§ 1946.
Transfer of
insane
prisoners to
asylum.

Duty of
warden.

Physician
and medical
superinten-
dent to ex-
amine, etc.

Governor
may order
prisoner sent
to asylum.

state of the insanity of said convict, whose duty it shall be to inquire into the facts, and he may pardon such lunatic, or commute or suspend, for the time being, the execution in such manner or for such period as he may think proper, and may, by his warrant to the warden of the state prison, or any penal institution of this state, order such lunatic to be conveyed to one of the state asylums for the insane, and there kept at the expense of the state until restored to his reason, unless his sentence shall sooner expire, in which case, or if restored to reason before the expiration of the time of his sentence, he shall be returned to the prison to serve out the unexpired time of his sentence, the time of such suspension shall count on the time for which sentenced.

124. Whenever a convict in the state prison or any penal institution of this state shall show symptoms of insanity, the warden shall give notice to the physician thereof and to the medical superintendent of the asylum for the insane at Kalamazoo. The physician and medical superintendent aforesaid, upon receiving such notice shall forthwith examine such convict, and if upon such examination they shall be of opinion that said convict is insane, they shall certify the same to the warden of the prison or any penal institution of this state, who shall forthwith put such lunatic or insane convict in the prison department prepared for that purpose.

§ 1947.
Transfer of
insane person
to lunatic de-
partment in
prison.

125. The physician for said prison or any penal institution of this state shall give such medical and surgical aid to the lunatic convicts who may not be removed by order of the governor, as provided by section one* hereof, as the nature of their cases and circumstances will permit and require; and whenever any lunatics or insane convicts shall be adjudged to be restored to their proper minds, or so far restored that it may be considered safe to put them at labor, under their sentence, and certified so by the physician and medical superintendent as aforesaid, the warden of the prison or any penal institution of this state shall again put such restored convicts at hard labor, according to their sentence.

§ 1948.
Duty of prison
phys. as to lu-
natic convicts.

When lunatic
adjudged, re-
stored; duty
of warden.

* See § 1946, pl. 123, supra.

126. Before discharging any convict at the time of the expiration of his sentence from any of the penal institutions of this state, who may be deemed insane, and so certified by the physician in charge of any such institution, if no relative or friend of [any] such convict appears and takes charge of him, the warden or other superintending officer shall first give notice in writing to the county clerk of the county from which such convict was sent, and to one or more of the relatives or friends of such convict, if known, and also to the probate judge of the county in which such penal institution is located of the fact of his condition; and on the receipt of such written notice said judge shall, within twenty days, issue his warrant to the sheriff of such county, commanding him to receive such convict at the time of his discharge at the said institution, and bring him before such judge.

§ 1949.
Notice to be
given before
insane con-
victs are dis-
charged.

Probate judge
to issue war-
rant to sheriff.

127. Upon the receipt of such warrant it shall be the duty of said sheriff to whom it is directed to execute the same forthwith, and return the same to the probate judge by whom it was issued.

§ 1950.
Duty of sheriff
on receipt of
warrant.

128. On such discharged convicts being brought before the judge of probate aforesaid, such judge shall call two respectable physicians and other credible witnesses, and also immediately notify the prosecuting attorney of his county, of the time and place of meeting, whose duty it shall be to attend the examination, and act in behalf of the state; and said probate judge shall fully investigate the facts in the case, either with or without a jury, as to the question of insanity, and if the probate judge certifies that satisfactory proof has been adduced showing him insane, and no relative, relation, or friend of such discharged convict, has, in the meantime, appeared and offered to take charge of him, on the certificate of such judge, under the seal of the probate court of said county, he shall be admitted into one of the asylums for the insane in this state, and supported there at the expense of the state until he shall be restored to soundness of mind, or until removed by due process of law, or taken charge of by his relatives or friends. The bills for the maintenance, clothing and other charges of such patients, shall be rendered quarterly

§ 1951.
Proceedings
before judge
of probate.

When to be
admitted to
asylum at ex-
pense of state.

Bills for
maintenance,
how paid.

to the auditor general in the same manner as bills are rendered to county treasurers for the support of patients at county charge, and shall be paid by the state treasurer to the treasurer of the asylum in which the patients may be, on the warrant of the auditor general, out of any money belonging to the general fund. The probate judge in such examination shall have the power to compel the attendance of witnesses and jurors, and shall file the certificates of the physicians taken under oath and other papers, and enter the proper order in the journal of the probate court in his office; said probate judge shall report the result of his proceedings, to the board of state auditors, whose duty it shall be to audit and allow the expenses of such proceeding, to be paid by the state treasurer on the warrant of the auditor general; *provided*, that if such discharged convict shall not be in indigent circumstances, the treasurer of such asylum shall take all necessary proceedings to reimburse the state for his support at such asylum from his property or such of his relatives as may be liable for his support.

Judge to report to board of state auditors.

Expense of proceedings, how paid.

Provided.

Howell's Annotated Statutes of 1882, being a new work, the following cross-reference may be of assistance:

§§ 412-18 will be found in Laws of 1881, No. 206.

§§ 1879-1928, Laws of 1877, No. 194; 1879, No. 103; 1881, Nos. 147 and 192.

§§ 1931-43, Laws of 1881, No. 225.

§§ 1944-5, Laws of 1873, No. 91; 1875, No. 8; 1879, No. 50; 1881, No. 215.

§§ 1946-8, Laws of 1877, No. 189.

§§ 1949-51, Laws of 1877, No. 172; 1879, No. 115.

§§ 1952-61, Laws of 1873, No. 172.

MINNESOTA.

GOVERNMENT OF MINNESOTA ASYLUM.

1. Establishment and location; government vested in trustees.
2. Trustees, appointment, term of office.
3. Appropriation, control of, vested in trustees.
4. Oath of office, compensation, meetings, officers.
5. Powers and duties.
6. Superintendent, oath, powers.
7. Treasurer, bond, powers.
8. Trustees may hold property in trust.
9. Trustees may purchase lands.

ROCHESTER ASYLUM.

10. Establishment and location.
11. Property of inebriate asylum, transferred to; government vested in trustees of state asylum.
12. Appropriations for; special department for inebriates provided.

MISCELLANEOUS PROVISIONS.

13. Reports of officers of asylums.
14. By-laws to be supplied to judges, notice of opening of asylum.
15. Superintendent's statistics.
16. Contracts to be advertised.
17. To be awarded to lowest bidder.
18. Estimate of expenses, warrants and vouchers.
19. Warrants for deficit.
20. Pay-rolls, form of, verification.
21. Audit of pay-rolls, warrants.
22. Amounts of expenditures, audit.

ADMISSION AND DISCHARGE.

23. Residents admitted free of charge; re-admission, regulations for.
24. Public and private patients, distinction between abolished.

25. Proceedings for commitment and notice of discharge.
26. Fees for examination and commitment.
27. Commitment, or removal to custody of friends.
28. Discharge, on order of trustees.
29. Discharged patients supplied with clothing and money.
30. Admitted patients supplied with clothing.
31. Interrogatories to be answered.
32. Definition of "insane."
33. Definition of "insane person" and "spendthrift."

COMMISSION OF LUNACY.

34. Commission of lunacy, members of, inspection of asylums, reports.
35. May remand patient for re-examination.
36. Selection of idiots and imbeciles for transfer to training school.
37. Idiots and imbeciles supported in Faribault asylum.
38. Re-transfer of incurable idiots and imbeciles to guardian or commissioners of county.
39. Foregoing provisions not to found permanent training school.

CRIMINAL INSANE.

40. Insane convicts, examination.
41. Report and prison transcript submitted to governor.
42. Transfer of convict to asylum, notice to superintendent.
43. Superintendent's receipt.
44. On recovery remanded to prison.
45. Term in asylum counted in computing allowance for good conduct.
46. Fact of insanity stated in verdict; place of commitment.

1. The hospital for the insane for the state of Minnesota, shall be erected and located upon the site designated and determined as hereinbefore mentioned and provided for, and shall be known by the name and title of Minnesota Hospital for Insane, and

Statutes of
1878 and suppl.
of 1883,
ch. 35, § 11.
Location,
name, trustees.

shall be placed under the charge of seven trustees, four of whom shall constitute a quorum for the transaction of business.

2. [Seven persons named] are hereby constituted the board of trustees of such asylum. The two first named shall serve for two years, the second two for four years, the last three for six years; and as their terms expire, their successors shall be appointed by the governor, by and with the advice and consent of the senate, for the term of six years, and until their successors are appointed and qualified.

*Ibid § 12.
Appointment
and terms of
trustees.*

3. All appropriations made in any act which shall hereafter be passed for the benefit, care or treatment of the insane of this state, or for the erection, purchase or lease of any building for their accommodation, shall be placed under the charge of said board, and shall be drawn from the state treasury by the treasurer of the hospital in the mode and manner hereinafter provided.

*Ibid § 13.
Expenditure
of appropriations.*

4. The trustees, before entering upon the duties of their office, shall take and subscribe an oath or affirmation to support the constitution of the United States, and of this state, and also faithfully to discharge the duties required of them by law, and the by-laws that may be established. They shall be paid their necessary expenses during the time they are actually engaged in the discharge of their official duties, such payment to be made out of any money appropriated for the support of the insane. They shall hold their annual meeting at the hospital on the first Wednesday in December of each year, when they shall choose one of their number president, and another secretary, and one treasurer, for the ensuing year, and until their successors are elected and qualified.

*Ibid § 14.
Oath, compensation,
and meetings
of trustees;
officers.*

5. The said trustees shall have the general control and management of the hospital. They shall have power to make all by-laws necessary for the government of the same, not inconsistent with the laws and constitution of the state of Minnesota, and to conduct the affairs of the institution in accordance with the laws and by-laws regulating the same. They shall appoint a medical superintendent, who shall be a well educated and regular physician, and a steward, a matron, and assistant physician or physi-

*Ibid § 15.
Powers of
trustees.*

cians, and a chaplain, when such officers are deemed necessary, who shall be governed by and be subject to all the laws and by-laws established for the government of said hospital. The said trustees shall fix all salaries not otherwise determined by law, and may at their pleasure remove all officers, except the superintendent, who may be suspended by the said board of trustees until he can have a hearing before the governor of the state; and after such hearing, he, the said superintendent, may be removed from office by the governor, by and with the advice and consent of said board of trustees.

6. The superintendent, before entering upon the duties of his office, shall take and subscribe an oath or affirmation, faithfully and diligently to discharge the duties required of him by law and the by-laws regulating the institution. He shall have the general control and management of the hospital, and may at his pleasure suspend any subordinate officer until an examination is had before the board of trustees, which may, at its pleasure, then remove said officer.

7. The treasurer shall execute a bond to the board of trustees of said hospital, in such a sum or amount, and with such sureties, as the said board of trustees shall approve, conditioned that he will faithfully perform the duties of his office, and pay over and account for all moneys that shall come into his hands, as such officer, from the state or any other source. He shall have power to draw from the state treasury, out of moneys appropriated for hospital purposes, upon his order, under the seal of the institution, approved by the president and secretary, and endorsed by the superintendent, a sufficient amount to defray the expenses of the institution, or to defray the expenses of any building operations, or any other work carried on by the said board, for which moneys may have been appropriated. Upon the presentation of such an order to the auditor of state, and not otherwise, it shall be his duty to draw a warrant on the treasury for the amount therein specified.

8. The board of trustees may take and hold, in trust for the hospital, any lands conveyed or devised, and any money or other personal property given or bequeathed, to be applied for any purpose connected with the institute.

Ibid § 16.
Oath of supt.,
his powers.

Ibid § 17.
Bond of treas.,
his power to
draw appro-
priations.

Ibid § 18.
Power of trus-
tees to hold
property.

9. The board of trustees of the Minnesota hospitals for insane, are hereby authorized and empowered to purchase land for the use of the hospitals, said purchase not to exceed in cost eight thousand four hundred dollars for the first hospital, and ten thousand dollars for the second hospital.

§ 18 a.
Empowered to
purchase
lands for
hospitals.

10. There is hereby located and established at the city of Rochester, in the county of Olmstead, a hospital for the insane of the state of Minnesota.

Ibid § 39.
Location of
new hospital.

11. All the lands, buildings, property and funds, heretofore acquired and held for the foundation and maintenance of an asylum for inebriates, are hereby transferred and set apart and appropriated to the establishment, support and maintenance of the said second hospital for the insane herein provided for, and shall be subject to the same control and management as the property and funds now set apart and used for the support and maintenance of the hospital for insane.

Ibid § 40.
Property of
inebriate asy-
lum trans-
ferred.

12. There is hereby appropriated the sum of fifteen thousand dollars to said board of trustees, to be used for the completion and furnishing of the present buildings, and to erect thereon such additional building or buildings as may be necessary to accommodate the number of patients in excess of the capacity of the present hospital for the insane; *provided*, that the said board of trustees shall make provisions for special departments in said hospital, for the treatment of inebriates.

Ibid § 41.
Appropriat'n
for complet'n
of buildings.

13. The superintendent and steward and treasurer shall report to the trustees, from time to time, as shall be provided for in the by-laws. The trustees shall report to the governor, after their annual meeting in December of each year, and before the meeting of the legislature, and so much oftener as they may deem necessary of the condition and wants of the hospital. Their annual reports shall be accompanied by the reports of the superintendent and steward and treasurer. This report shall give an account of all the disbursements for the year ending, and shall make an estimate for current expenses for the ensuing year, and for building and other purposes for which appropriations may be deemed necessary, by said board of trustees.

Ibid § 29.
Reports of
officers—
annual report
of trustees.

14. The trustees shall furnish and mail, when printed, copies of the by-laws to all judges of probate in the state, and shall also inform, by mail, said judges when the institution will be open for the reception of patients.

*Ibid § 30.
Trustees to furnish probate judges with by-laws.*

15. The superintendent of the Minnesota hospital for the insane is hereby required, on the first day of each month, to make out a report in writing, showing the condition of each patient in said hospital, [separately,] with reference to bodily health; appetite; sleep; mental symptoms generally; particular symptoms; mental state; habits and inclinations; prospect of restoration; and shall forward by mail to the next of kin of each of such patients, respectively, a copy of such report, without charge, within the first week of each month.

*Ibid § 32.
Monthly report of condition of patients, to whom sent.*

16. It is hereby made the duty of those who, under authority of the state, have respectively the care, control and management of the several state institutions, before letting any contract or contracts for the erection of any new buildings for the state, or the enlarging or improving any of those already in existence, where the value of said building or improvements shall exceed the sum of five thousand dollars, to advertise for proposals for four consecutive weeks prior to said letting, in a paper published at the place where said institution is located, and also for the same length of time in some paper having a general circulation published at the capital, stating the time and place said proposals will be received and opened.

*Ibid § 37.
Letting of contracts for public buildings: advertising for bids.*

17. It is hereby made the duty of those so advertising for proposals as aforesaid to let any and all contracts made in behalf of the state to the lowest responsible bidder.

*Ibid § 38.
Contracts to be awarded to the lowest bidder.*

18. Whenever the authorities of any state institution shall make requisition for money from the state treasury on account of legislative appropriation, they shall forward to the auditor of state an estimate of the sum required for the month for which such estimate is made, and a warrant shall be drawn therefor; and at the end of such month, such institution shall furnish the state auditor vouchers for all moneys expended during

*Ibid § 39.
Requisitions for money appropriated—estimate and vouchers to be furnished auditor.*

such month, and before another warrant can be drawn. Such vouchers shall be subject to inspection at all times, and said auditor shall inspect said vouchers monthly.

19. Should any deficit of any state institution herein specified exist on account of current expenses before the passage of this act, the amount of such deficit may be drawn by warrant, on furnishing vouchers for the same, as herein specified.

20. The accounting officers of each institution herein named, [first and second hospitals for the insane, etc.,] shall make monthly duplicate pay-rolls or expense lists, showing the name of each person rendering service or furnishing supplies, the nature of the service, and at what rate rendered, the quantity and kind of supplies furnished, and the amount to which each person is entitled by law. Said rolls or lists shall be verified by the oath of the principal officer of the supervising board of each institution, and the accounting officer of the same, and the said accounting officer shall, on or before the last day of each month, forward one of the said rolls or lists to the auditor of state.

21. On receipt of such certified expense lists, the auditor of state shall examine, adjust and approve, or reject, the same, and on or before the tenth day of each month following draw his warrants for the amounts found due thereon to each institution; *provided*, that five per cent. additional may be allowed each institution for contingent expenses, which shall be properly accounted for on the next monthly pay-roll.

22. All bills or accounts against the said state institutions shall be made out and receipted in duplicate, and on forwarding the pay-rolls the last of each month, the said accounting officers shall also forward one set of such bills and vouchers for the preceding month, and having been compared by the auditor of state with the proper pay-rolls, they shall be filed with the same in his office and preserved, subject to public inspection.

23. Every insane person who is a *bona fide* resident of this state shall be admitted to the hospital for the insane for the state of Minnesota, and maintained at the public expense, free of charge to his or her relatives or friends, and upon equal terms with every other

Ibid § 80.
Same,
deficit.

Ibid § 81.
Monthly pay-
rolls and
expense lists;
verification
by board of
supervisors.

Ibid § 82.
Auditor to ex-
amine lists;
provided.

Ibid § 83.
Bills to be
made out and
receipted in
duplicate; to
be filed.

Ibid § 19.
Admission of
patients to
hospital;
second admis-
sion.

insane person; *provided*, no person shall be admitted in the hospital the second time, unless by the consent of the superintendent, president of the board, and one trustee.

24. All distinction between "public" and "private" patients, as defined in any law or statute of this state, is hereby abolished; and all resident insane persons within the state shall be deemed and treated as public patients, and all laws, acts or parts of acts in relation to private patients, or contrary to the provisions of this act, are hereby repealed.

Ibid § 20.
Distinct'n be-
tween classes
of patients
abolished.

25. The probate judge, or, in his absence, the court commissioner, of any county, upon information being filed before him that there is an insane person in his county needing care and treatment, shall cause the person so alleged to be insane to be examined by a jury consisting of two respectable persons, besides himself, one at least of whom shall be a physician, to ascertain the fact of his insanity; and if the said person is found to be insane, he shall, upon the written certificate of the judge, directed by a majority of the jury, issue duplicate warrants, committing the person so found insane to the care of the superintendent of the hospital, and shall place the warrant in the hands of the sheriff, or some other suitable person, whom he shall authorize to convey the said insane person to the hospital; and such warrant may be in the following language, to wit:

Ibid § 21.
Proceedings
for commit-
ment of person to
hospital;
form of certi-
ficate and
warrant.

**Ibid § 21.
Proceedings
for commitm't
of person to
hospital ;
form of certi-
ficate and
warrant.**

State of Minnesota, } ss.
County , }

To the superintendent of the Minnesota hospital for the insane:

having been, upon examination, found to be insane, you are therefore required to receive him (or her) into the hospital, and keep him (or her) there until legally discharged.

In witness whereof, I have hereunto set my hand, and affixed the seal of the probate court (or of the court of the commissioner) of said county, this day of , 18 .

, Judge of Probate.

The duplicate warrant shall be filed in the office of the superintendent, and the original shall be returned, with the superintendent's indorsement, to the judge of probate, and filed in his office.

Whenever any person who has been, or shall hereafter be, committed to the care of the superintendent of either of the hospitals for the insane, by warrant issued by a judge of probate, shall be discharged from such hospital, the superintendent of the hospital from which he shall have been discharged shall, upon the day of such discharge, send by mail to the judge of probate of the county in which such warrant was issued, a certificate, signed by such superintendent, stating that such person had been discharged from such hospital and the date of such discharge; which certificate, when received by such judge of probate, shall be filed by him.

Notice sent to judge on discharge of inmates.

26. The judge of probate, or court commissioner, shall allow the following fees:

Ibid § 22. Fees for examining and conveying insane person to hospital; audit and order for payment.

To the physician or physicians, and such other person on the jury, for examining the insane person, and making a written certificate, three dollars each; and for every mile traveled in so doing, fifteen cents.

To the person he authorizes to convey the insane person to the hospital, two dollars per day for the time necessarily employed, and all necessary disbursements for travel, and for support of himself [and] insane person and assistants; such amounts to be audited by the judge of probate or court commissioner, and judgment entered of record therefor, to be paid out of the county treasury by the county treasurer, upon the written order of the judge of probate or court commissioner, under seal of the court; and upon the payment thereof, said judgment shall be satisfied of record by the judge of probate or court commissioner; *providing*, that the said written order shall be filed with the county auditor, who shall issue his warrant on the county treasurer in payment of said sums.

27. The relatives of any person charged with insanity, or who shall be found to be insane under section 17 of this act, shall in all cases have the right to take charge of and keep said insane person or persons, if

Ibid § 23. Care of insane persons by their relatives—bond.

they shall desire so to do; but the probate judge or court commissioner may require a bond of such relatives, conditioned for the proper and safe keeping of such person or persons; and if the relatives or friends of any patient kept in the hospital shall ask for the discharge of such patient, the superin-

tendent may, in his discretion, require a bond to be executed to the state of Minnesota, in such sum and with such sureties as he may deem proper, conditioned for the safe keeping of such patient; *provided*, that no patient that may be under the charge of, or convicted of homicide, shall be discharged without the consent of the superintendent and board of trustees.

28. Patients shall be legally discharged from the hospital by vote of the trustees; and for this purpose three
Ibid § 24.
Discharge.

29. When a patient is discharged as cured, the superintendent shall furnish him or her with suitable clothing, and a sum of money sufficient to defray expenses home, unless otherwise supplied, which clothing and money shall be charged to the state.
Ibid § 25.
Clothing and money to be furnished discharged patients.

30. The clothing to be furnished to each patient, upon being sent to the hospital, shall not be less than the following: For a male—three good shirts, a good and substantial coat and vest, two pairs of woollen pantaloon, three pairs of new socks, a dark necktie, two pocket handkerchiefs, a hat or cap, a pair of new boots or shoes, and a pair of slippers. For a female two pair cotton-flannel wrappers and drawers each, three shirts, two woollen petticoats, three dresses, one pair of shoes and one pair slippers, three pairs of stockings, two pocket handkerchiefs, a cloak or shawl, and a decent bonnet. Unless such clothing be delivered to the superintendent in good order, he shall not be bound to receive the patient. But in case of public patients, comfortable and proper clothing shall be furnished by the superintendent, at the expense of the state.
Ibid § 28.
Clothing to be furnished patients sent to hospital.

31. It shall be the duty, in case of public patients, of the judge of probate or court commissioner, with the assistance of the examining physician, to annex full and precise answers to as many of the following questions as are applicable to the case, and forward the same to the superintendent, when the patient is sent to the hospital:
Ibid § 27.
Questions to be asked and answered.

- (1) What is the person's name?
- (2) Where does he or she reside?
- (3) What is his or her age?
- (4) Is he or she married or single?
- (5) Has he or she any children? if so, how many?

- (6) What is his or her occupation?
- (7) Is he or she a church member?
- (8) What has been his or her habits as regards temperance and morality?
- (9) Where was he or she born?
- (10) Was insanity hereditary in the family?
- (11) What relatives, if any, have been insane?
- (12) What is the supposed cause of this attack?
- (13) What is the form of this attack ; acute, chronic, exalted, depressed or paroxysmal?
- (14) Is there any accompanying bodily disorder?
- (15) When were the first symptoms of the disease manifested, and in what way?
- (16) Is this the first attack?
- (17) If not, when did others occur, and what was the duration of each?
- (18) On what subject or in what way is insanity now manifested?
- (19) Has he or she ever shown any disposition to injure others? if so, was it from sudden passion or premeditation?
- (20) Has suicide ever been attempted? if so, in what way, and is the propensity now active?
- (21) Is there any disposition to filthy habits, destruction of clothes, etc.?
- (22) Has he or she been subject to any bodily disease, epilepsy, suppressed eruptions, discharges or sores, or ever had any injury to the head?
- (23) Has restraint or confinement ever been employed?
- (24) If so, what kind, and how long?
- (25) Has he or she ever been under medical treatment?
- (26) If so, mention particulars and effects?
- (27) State any other particulars supposed to have a bearing on the case.

For the service required in this section, the judge of probate or court commissioner shall be allowed a fee of three dollars.

32. The term "insane," as used in this act, includes every species of insanity, but does not include idiocy or imbecility.

33. In the construction of statutes, the following rules shall be observed, unless such construction would be inconsistent

with the manifest intent of the legislature, or repugnant to the context of the same statute, that is is to say:— * * * * *

Ch. 4, § 1.
Rules for construing statutes.

Sixth. The words "insane person" shall include every idiot, non-compos, lunatic, and distracted person; and the word "spendthrift" shall include every one who is liable to be put under guardianship on account of excessive drinking, gaming, idleness or debauchery.

34. The governor shall appoint a commission of three doctors, one of whom shall be a member of the state board of health, who shall serve for a period of two years, or until their successors shall be appointed, who shall constitute a commission whose duty it shall be to visit the several Minnesota hospitals for the insane at least once every six months of each year, or upon the written request of the governor of the state, and inspect said hospitals as to the sanitary condition and the general management of the same, and also to examine into the mental and physical condition of the patients therein, frequency, manner, and cause of punishment, elopements, deaths, and such other matters as may fall within the scope of a thorough hospital inspection, and report in detail to the governor within ten days after each and every such inspection is made. Said commissioners shall be known and designated as the lunacy commission and shall receive for their said services and expenses the sum of one hundred dollars per annum each; for which the state auditor shall draw his warrant on the state treasurer, payable out of the general fund.

Ch. 35, § 28.
Establishment of a lunacy commission, for inspection of hospitals; reports.

35. Should the said commission find, upon visiting either of the said hospitals, any patient or patients whose insanity they have reason to doubt, said commission shall have the authority to remand such patient or patients to the probate court, from which they were committed respectively, there to be detained a reasonable time, under proper surveillance, when, if such judge shall be satisfied of his or her sanity, he or she shall be discharged by order of said court; otherwise he or she shall be recommitted to the hospital for the insane; *provided*, that said commission shall have no authority to discharge any patient committed to either of the insane asylums in this state and charged with crime.

Ibid § 28 a.
Power of probate judge to discharge patients, on being recommended by lunacy commission; recommitment to asylum.

Proviso.

36. It shall further be the duty of said commission to select from the patients of the insane hospitals such idiotic and feeble-minded children and youths who, in their opinion, are proper subjects for training and instruction, and transfer the same to the trustees of the asylum for the deaf, dumb, and the blind at Faribault.

Ibid § 28 b.
Transferred
to asylum of
dumb, deaf
and blind.

37. The trustees of the asylum for the deaf, dumb, and the blind are hereby authorized to receive such weak-minded and idiotic children and youths as may be sent them under the provisions of this act, and make provisions for the maintenance of said children and youths, and are required to lease, for a term not exceeding two years, a proper building or rooms for the same, and to provide a competent teacher and attendants for said children and youths, and to establish such rules and regulations as may be necessary for the instruction, training and government of said children and youths.

Ibid § 28 c.
Provision for
feeble-
minded
children.

38. In case any children and youths so received shall be found, upon trial, incapable of receiving any benefit from such instruction and training, or when, in the opinion of the superintendent of said asylum, it shall be better for the welfare of any child or youth to be removed from said asylum, the said superintendent shall have full power to remand any such child or youth to the parents thereof, or to the board of commissioners of the county from which the child or youth was sent.

Ibid § 28 d.
Incurable pa-
tients to be
remanded.

39. Nothing herein contained shall be construed as establishing a permanent institution for the support and education of the persons herein named.

Ibid § 28 e.
Limitation.

40. Whenever any person who now is, or who may hereafter become, a convict in the state prison, shall, in the opinion of the warden and board of inspectors thereof, be regarded as insane, it shall be the duty of the said board to call in two physicians skilled in their profession, one of whom may be the prison physician, who shall, without employing cruel or inhuman tests, make a careful and thorough examination as to the insanity of such convict, and report the result of their examination; which report shall be in duplicate, and entered on the prison records, and be regarded as conclusive evidence in the case.

Ch. 33, § 33.
Examination
of convict for
supposed
insanity; re-
ports.

41. Whenever, as in manner above named, any convict shall be pronounced insane, said board shall notify the governor of the fact by forwarding to him said duplicate report, to each of which shall be appended a transcript of the prison records relating to such convict.

*Ibid § 34.
Examining
board to re-
port to
governor.*

42. Upon the receipt of said notice, the governor shall endorse thereon his approval, and shall, at the expense of the state, cause such convict to be removed from prison, and delivered to the superintendent of the hospital for insane, for treatment in that institution; and, shall, at the same time, forward to said superintendent said duplicate notice of the officers of the state prison; which notice shall be to him a warrant to receive and provide for such convict such treatment as that afforded in said hospital to similar cases of insanity, except that such convict shall be kept separate and apart from other patients, so far as practicable.

*Ibid § 35.
Governor to
order commit-
ment to insane
hospital.*

43. Upon receiving such convict and said warrant from the governor, the superintendent shall endorse upon one substantially as follows:

*Ibid § 36.
Form of re-
ceipt for such
convict.*

Minnesota Hospital for the Insane.

Received this day of 18 , the patient, a state prison convict, named in the within warrant.

A. B., Superintendent.

Which shall be returned, with the superintendent's endorsement, to the warden of the state prison, and filed in his office; the duplicate warrant shall be filed in the office of the superintendent.

44. Whenever, in the opinion of the superintendent, such convict is cured of the mental disability on account of which such commitment was made, the term of sentence not having expired, he shall notify the governor of such fact, who shall remand such convict to the state prison at the expense of the state.

*Ibid § 37.
Convict to
be remanded
to prison,
if cured.*

45. In computing time allowed by law for good conduct under prison discipline, the board of inspectors shall grant to such convict the full benefit of said law for the time so absent or insane; but no such absence or insanity shall affect the term of sentence of such conduct [convict].

*Ibid § 38.
Term of sentence,
how affected;
time allowed for
good conduct.*

46. When any person indicted for an offense is, on trial, ac-

Ch. 114, § 23. Proceedings on acquittal on ground of insanity. quitted by the jury, by reason of insanity, the jury, in giving their verdict of not guilty, shall state that it was given for such cause; and thereupon, if the discharge or going at large of such insane person is considered by the court manifestly dangerous to the peace and safety of the community, the court may order him to be committed to the hospital for the insane, for safe keeping and treatment, or may order him to be committed to prison, or may give him into the care of his friends, if they shall give bonds with surety, to the satisfaction of the court, conditioned that he shall be well and securely kept; otherwise he shall be discharged.

MISSISSIPPI.

GOVERNMENT OF JACKSON ASYLUM.

1. State asylum continued, corporate powers.
2. Government vested in a board of trustees, appointment, term of office.
3. Trustees in office to hold until successors appointed.
4. Governor to be ex-officio president; president pro tem. to be chosen.
5. Vacancies temporarily filled by governor.
6. Vacancy, when presumed; quorum.
7. Trustees to have general control; by-laws and regulations.
8. Records, monthly inspection, meetings, reports.
9. Steward, bond.
10. Salaries of officers fixed by trustees.
11. Superintendent, appointment.
12. Term of office.
13. Vacancy, temporarily filled by governor.
14. Removal of superintendent and trustees.
15. Superintendent, powers and duties.
16. Steward, duties, inventory.
17. Exemption of officers from jury service.

EAST MISSISSIPPI ASYLUM.

18. Establishment and title.
19. Commissioners for selection of site; amount of land; tax to be levied.
20. Powers of commissioners.
21. Expenses of, paid by state.
22. Authority to erect asylum; plans and specifications.
23. Government vested in board of trustees with powers similar to

trustees of Jackson asylum; to furnish asylum; term of office.

24. Appropriation for equipment.
25. Superintendent, powers.
26. Appropriation for asylum.

ADMISSION AND DISCHARGE.

27. Who may be admitted; judge's certificate of indigence.
28. Order of court to authorize admission, when there are vacancies.
29. Admission by trustees without proceedings in lunacy.
30. History of patient's lunacy; trustees may refuse admission on non-compliance with regulations.
31. Inquisition of lunacy of insane going at large; commitment to asylum, or temporary confinement in jail.
32. Removal of harmless incurables.
33. Removal and support of harmless incurables, estate liable for.
34. Relatives liable for.
35. Removal to county of settlement.
36. Discharge on recovery, above provisions applicable to.
37. Inquisition of lunacy for appointment of guardian.

CRIMINAL INSANE.

38. Investigation of insanity, report to court of chancery.
39. When not indicted, grand jury to certify fact of insanity to circuit court, notice to court of chancery.
40. Fact of insanity to be stated in verdict of acquittal, notice to court of chancery; proceedings.

1. The state lunatic asylum, heretofore established,* shall continue to exist as a body politic and corporate, by that name and style, with all the rights, powers and privileges incident to such a body, and necessary and proper

R. C. 1880.
§ 642.
Organization.

* At Jackson.

to accomplish the end of its organization, and may receive, hold, and dispose of; all real and personal property conveyed to it; and continue to hold and use all of the property, real and personal, heretofore secured to it.

2. The management and control of said lunatic asylum shall be vested in five trustees, appointed by the governor of the state, by and with the advice and consent of the senate, who shall continue in office for four years, and until successors are appointed.

§ 643.
Control vested
in trustees.

3. The trustees now in office shall continue, according to the terms of their appointment, and until their successors shall be appointed.

§ 644.
Present trustees
continued.

4. The governor shall be *ex-officio* president of said board of trustees; but in his absence, the board may elect from their number a president for the time.

§ 645.
Who president
of trustees.

5. The governor may fill vacancies occurring in the board of trustees, during a recess of the senate, and his appointees shall continue in office until a meeting of the senate, and thereafter, during its session, until successors are appointed.

§ 646.
Vacancies
among trustees
during
recess of senate.

6. Upon the removal of any trustee beyond the distance of ten miles from said asylum, or on his failing to visit said institution, as may be required by the by-laws of said board, the governor shall appoint a trustee in his stead, upon the facts being duly certified to him by the board of trustees. A majority of said board of trustees shall constitute a quorum, to do any business connected with said asylum, except the repeal of any of the by-laws, for which purpose it shall require at least four of the board to act.

§ 647.
Trustees displaced, when.

7. The trustees shall have charge of the general interests of the asylum, and shall manage and direct its affairs, and make all proper by-laws and regulations for its control and government, not inconsistent with the constitution and laws of this state.

§ 648.
Powers and
duties of
trustees.

8. The board of trustees shall keep, in a bound book, to be provided for that purpose, a fair and full record of all their doings, which shall be open, at all times, for the inspection of the governor of the state, and all persons whom he or either house of the legislature may appoint to examine the same; and the trustees shall maintain

§ 649.
Trustees to
keep record
and make
reports.

an effectual inspection of the asylum, for which purpose one or more of them shall visit it, at least once in every month, and they shall hold a meeting of said board at the asylum once every three months, or oftener, if required; special meetings shall be called in the manner prescribed in the by-laws; and they shall, on or before the first Monday in December, make a true report of the actual condition of said asylum to the governor, accompanied by the annual report of the superintendent; and upon the meeting of the legislature, the governor shall transmit said reports to it.

9. The board of trustees shall appoint a steward of the asylum, who shall give bond for the faithful performance of his duty, in such sum, and with such sureties, as the board of trustees may prescribe and approve; which bond shall be payable to the state, and be filed in the office of the auditor of public accounts; and the board of trustees may require, from time to time, the renewal of said bond.

§ 650.
To appoint a steward who shall give bond.

10. The board of trustees shall determine the compensation of the steward, and such other officers and assistants as they may deem necessary for the just and economical administration of the affairs of the asylum.

§ 651.
Trustees to fix compensation of employees.

11. The medical superintendent of the asylum, now in office, shall continue, according to the terms of his appointment, and until his successor shall be qualified. His successor shall be appointed by the governor, by and with the consent of the senate.

§ 652.
Medical supt., appointment.

12. The term of office of the medical superintendent shall be four years.

§ 653.

13. The governor shall fill any vacancy in the office of medical superintendent, which shall occur during a recess of the senate, and his appointee shall continue in office until the meeting of the senate, and thereafter, during the session of the senate, until his successor shall be qualified.

§ 654.
Vacancy, how filled.

14. The governor shall have power to remove the medical superintendent, or any of the trustees, for neglect of duty, or other proper cause, and appoint a successor, during a recess of the senate.

§ 655.
Removal of officers.

15. The medical superintendent shall have power to appoint

§ 656. Powers and duties. and remove all subordinate officers and employes allowed by the board of trustees; and he shall make, in a book kept for the purpose, at the time of reception, a minute, with the date of reception, of each patient, with name, age, sex, residence, office and occupation of the person, and by whom and by whose authority each insane person is brought to the asylum, and have all the orders, warrants, requests, certificates and other papers accompanying him or her, carefully filed and forthwith copied in said book. He shall also have general superintendence of the buildings, grounds and farm, with their furniture, fixtures and stock, and the direction and control of all persons therein, subject to the by-laws and regulations of the trustees. He shall daily ascertain the condition of the patients, and prescribe their treatment, in the manner prescribed in the said by-laws; and he shall also be required to see that all the rules and regulations for the discipline and good government of the institution are properly obeyed and enforced. He shall cause full and fair accounts and records of all his doings, and of the entire business and operations of the institution, to be kept regularly, from day to day, in books provided for that purpose, in the manner and to the extent prescribed in the by-laws, and shall see that all such accounts and records are fully made up to the first day of December in each year, and that the principal facts and results, with his report thereon, are presented to the trustees immediately thereafter.

16. The steward shall keep a regular account of all daily disbursements for the institution; take vouchers for § 657. Duties of steward. all payments; and keep carefully and file away all original bills for supplies, purchased by him for said asylum, and settle his accounts with the superintendent and treasurer, once in every month, and with the board once in every three months. He shall keep his accounts always open for the inspection of the superintendent, or any trustee, or the treasurer. The steward shall be accountable for the careful keeping and economical use of all furniture, stores or other articles provided for the asylum; he shall annually, during the month of November, make and file with the trustees a true and perfect inventory, verified by oath, of all personal property, of every description, belonging to the asylum, with the estimated value

of different classes of articles, and do and perform such other duties as shall be required of him by the by-laws, ordained by the board of trustees.

17. The resident officers of the asylum, and all attendants and assistants, actually employed therein, during the term of such employment, shall be exempt from serving on juries, and the certificate of the superintendent shall be evidence of such employment.

§ 638.
Officers and
employees ex-
empt from
jury service.

18. A new asylum shall be established for the maintenance and treatment of the insane of the state of Mississippi, which shall be located, erected and organized as is hereinafter provided; the said asylum to be called the "East Mississippi State Insane Asylum."

Act of 1882,
ch. 32, § 1.
Name of new
asylum.

19. The governor of the state shall appoint five (5) commissioners who shall immediately proceed to locate and establish the said asylum at or within two miles of Meridian, in Lauderdale county; *provided*, sufficient and suitable grounds for that purpose shall be donated by the city of Meridian, or the citizens of Meridian, within sixty days after the passage of this act; *and provided further*, that there shall not be less than four hundred acres, at least two hundred acres of which shall be well timbered, and if said lands shall not be donated within such time, the said commissioners shall proceed to locate said asylum at such place as they deem best for the interests of the state, and said commissioners may receive donations of lands or property. And the boards of councilmen and aldermen of the city of Meridian are hereby authorized to levy and collect a tax on the taxable property in said city sufficient to pay for land so donated, and to purchase said lands and to donate the same.

Ibid § 2.
Commis-
sioners.
Location.

Land required.

Tax to pay
for land.

20. Said board of commissioners are hereby authorized and empowered to employ an architect to draw up plans and specifications for the erection of said asylum, and to advertise for bids for the erection of the same, with power to accept the lowest and best bid, or to reject any or all bids for the erection of the same, according to plans and specifications furnished by said commissioners, and said commissioners shall require of the successful bidder, a bond with good and sufficient security, conditioned

Ibid § 3.
Plans for
building.

Bids.

Bond.

for the faithful performance of his contract; said bond to be made payable to the state of Mississippi, and filed in the office of the secretary of state.

21. All necessary expenses of said board of commissioners, shall be paid by the treasurer of the state on warrant to be drawn by the auditor out of the appropriation hereinafter provided for the erection of said asylum, upon the presentation of an itemized account of said expenses, to be approved by the governor.

Ibid § 4.
Expenses of
commission-
ers.

22. Said board of commissioners shall erect or cause to be erected, a centre building with wings of a capacity sufficient for the care and maintenance of two hundred and fifty patients; said buildings to be furnished with necessary boiler power, and engine, hot and cold water, and gas pipes and other appurtenances suitable for the proper furnishing of an insane asylum; and for the purpose of carrying out the provisions of this and the preceding sections, the sum of fifty thousand dollars is hereby appropriated, out of any moneys in the treasury otherwise unappropriated; said money to be drawn from the treasury in the same manner as is provided in section 4 of this act; *provided*, that no part of the sum hereby appropriated shall be used except upon a contract with good and sufficient security, guaranteeing the completion of the building with the sum hereby appropriated; said building to be of brick and covered with slate.

Ibid § 5.
Description
of building.

\$50,000 appro-
priated.

23. As soon as said asylum is finished, or sufficiently so as to receive patients, the governor shall appoint five (5) trustees to control and manage said asylum, who shall be invested with all the powers possessed by the board of trustees of the asylum now in existence, as laid down in chapter 13, Revised Code 1880; and said board of trustees, so soon as appointed, shall proceed to furnish said asylum with furniture, bedding and other appurtenances, necessary for the care and maintenance of the insane inmates, officers and employes, and to erect necessary outbuildings, fences, and make all necessary improvements of the grounds, and purchase the necessary stock, vehicles, etc., for the proper management of said asylum; said trustees shall continue in office till the next regular session of the

Ibid § 6.
Trustees.

Furniture.

Term of office
of trustees.

legislature, and till their successors shall qualify, and thereafter such trustees shall be appointed and continue in office in the same manner and for the same time now provided by law for the state lunatic asylum at Jackson.*

24. For the purposes specified in section six [6] of this act, the sum of ten thousand dollars is hereby appropriated, out of any moneys in the treasury, not otherwise appropriated, to be drawn as is provided in section two hundred and fifty (250) Revised Code 1880.

Ibid § 7.
\$10,000 appropriated.

25. When said board of trustees have been appointed and the services of a medical superintendent are necessary to take charge of said asylum, the governor of state shall appoint a medical superintendent to take charge of said asylum, and said asylum shall be brought under the operation of chapter 13, Revised Code of 1880.

Ibid § 8.
Medical supt.

26. The sum of thirty thousand dollars is hereby appropriated, out of any money in the state treasury not otherwise appropriated, for the support and maintenance of said asylum during the fiscal years 1882 and 1883, or so much of said sum as may be needed.

Ibid § 9.
\$30,000 appropriated.

27. Any person being a lunatic and a resident of the state of Mississippi shall be admitted into the asylum free of charge. The necessary expenses of removing such lunatic to and from said asylum shall be paid by the county from which such lunatic may be sent, and the board of supervisors shall order a warrant to be issued therefor; *provided*, a certificate of some judge, chancellor or justice of the peace be produced that sufficient proof by affidavit has been made before him that such lunatic has no visible means to defray the necessary expenses of removing such lunatic to and from said asylum. But if the legal settlement of such lunatic be in another county from that from which he shall be sent to the asylum, the county in which such lunatic has such settlement shall pay to the county incurring the expense of making inquisition and sending such lunatic to the asylum all its legal disbursements on such account.

§ 659,
as amended
1882, ch. 30.
How patients
are admitted
to asylum; ex-
penses.

28. It shall be the duty of the superintendent to admit into

* § 642, pl. 1, etc.

§ 660. the asylum all persons ordered to be placed therein
Admissions. after an inquest of lunacy in the due order of registration, if there be a vacancy in such asylum; and the presentation of a duly certified copy of such order, under the seal of the chancery court, shall authorize the admission of the patient into the asylum.

29. On application in behalf of any person being a lunatic and a resident of this state, for his or her admission
§ 661. into the asylum, the superintendent and board of
Admissions. trustees may, if they think that he or she ought to be admitted, receive him or her as a patient therein, even though no proceedings in lunacy have been instituted as hereinafter provided for.

30. The trustees of such asylum may adopt such rules as they see proper, as to the history of the lunacy of
§ 662. the patient proposed to be admitted into the asylum,
Admissions. which shall be presented with the application for admission or afterwards, as such rules may require, and may compel conformity to such rules, by refusing the application on behalf of a person for admission into the asylum, without compliance with them.

31. In case the friends or relations of any lunatic shall neglect or refuse to place him or her in said asylum, and shall permit him or her to go at large, it
§ 663. shall be the duty of the clerk of the chancery
Inquest of lunacy, when and how taken. court of any county in which such lunatic may reside or be found going at large, on the suggestion, in writing, of any citizen of the county, to direct the sheriff, by writ of lunacy, to summon, as soon as may be, the alleged lunatic and six discreet persons of the county in which such lunatic is going at large, to make inquisition thereto on oath and the result of such inquisition to return to said court forthwith; and if the person said to be a lunatic shall be adjudged by such inquest, or a majority of them, to be insane and one who should be confined therein, the said clerk shall order said sheriff to arrest said lunatic and place him or her in said asylum if there be a vacancy, or if there be no vacancy, to confine such lunatic in the county jail until room can be had in the lunatic asylum. The expense of such inquest shall be borne by the county and paid out of the county treasury on the allowance thereof by the board of supervisors.

32. When any patient in the asylum shall be found to be incurable, but harmless, and such as can be properly cared for out of the asylum, the superintendent shall inform the sheriff of the county from which such patient was taken to the asylum to remove such patient therefrom, and it shall be the duty of the sheriff, on receiving such information, at once to notify some near relation of such patient shall* thereof, if any such is in his county, and unless such relation immediately proceed to remove such patient from the asylum, said sheriff shall remove such patient to the county of such sheriff; and any sheriff, who being notified, as aforesaid, shall fail to remove such patient, shall be guilty of a misdemeanor, and be punishable accordingly. For such service the sheriff shall be paid out of the treasury of his county three dollars each day employed in performing it, and ten cents a mile for each mile traveled in going from the court house of his county to the asylum, and returning, to be allowed on due proof by the board of supervisors.

§ 664.
Removal of
certain pa-
tients from
asylum.

33. If such patient has an estate it shall be chargeable with the expense of his removal, as above provided for, and with the support of such lunatic, who shall be committed to his or her guardian, if any has been appointed.

§ 665.
Removals.

34. If such lunatic has no estate for his or her support, but has relatives bound by law for his or her maintenance, they shall bear said expenses, and may be sued therefor by the board of supervisors, and shall maintain said lunatic, as required by law; but if such lunatic has no estate, and has no such relatives as are bound for his or her support, he or she shall be maintained as a poor person by the county.

§ 666.
Removals.

35. If at the time of the removal of such patient from the county to the asylum, he or she had a legal settlement in another county, such person may be removed to such county, as in other cases of poor persons being found in another county than that in which they may have a settlement.

§ 667.
Removals.

36. The last preceding three sections shall apply to and embrace the case of any patient in the asylum, who

§ 668.
Removals.

* This word has evidently crept into the text.

has been cured, and is in condition to be discharged from the asylum.

37. The chancery courts of this state may, in their respective counties, appoint guardians to idiots, lunatics and persons *non compos mentis*, on the application of friends or relatives of such persons, or on the application of the supervisor of the proper district; and when any such application is presented, if the court shall be satisfied that there is probable ground for the application, it shall direct a writ to the sheriff of the county, commanding him to summon the person alleged to be of unsound mind, and six good and lawful men of the county, who are in no way related to the party, to make inquisition thereof, on oath, who shall make full inquiry by evidence, and by examination of the party, if they think proper, and if the person said to be a lunatic, idiot, or *non compos mentis*, shall be judged by said inquest, or a majority of them, to be incapable of taking care of himself or herself, they shall certify the same under their hands to the court under which they were appointed, and the court or chancellor, or clerk in vacation, shall thereupon appoint some suitable person to be guardian of such idiot, lunatic, or person *non compos mentis*, directing and empowering such guardian to take care of the person, and his estate, both personal and real, and the cost of such inquisition shall be paid out of the estate of such person, if it be sufficient; and said court, or clerk, may direct the confinement in the lunatic asylum of any lunatic who should be so confined; such writs may be issued by the clerk in vacation, on the order of the chancellor or without such order.

38. When a prisoner shall be brought before any conservator of the peace, charged with the commission of an offense, and, in the course of the investigation, it shall appear to such conservator, that the prisoner was insane when the offense was committed, and still is insane, he shall not be discharged; but such conservator of the peace shall remand the prisoner to custody, and forthwith report the case to the chancellor or clerk of the chancery court of the proper county, whose duty it shall be to proceed with the case, according to the law relating to persons *non compos mentis*.

39. When any person is held in prison or on bail, charged

§ 2118.
Guardians of
persons of un-
sound mind;
appointment.

§ 3139.
Insane, how
dealt with as
criminals.

with an offense, and the grand jury shall not find a true bill, by reason of the insanity of the accused, ^{§ 3140.} _{insane criminals.} the grand jury shall certify the fact to the circuit court, and state whether, in their opinion, such insane person is in such condition as to endanger the security of person or property, and the peace and safety of the community. And if the grand jury report such unsoundness of mind, and such danger, the court shall forthwith give notice of the case to the proper chancellor, or clerk of the chancery court, whose duty it shall be to proceed with such person and his estate, according to the law relating to persons *non compos mentis*.

40. When any criminal shall be indicted for an offense, and acquitted on the ground of insanity, the jury rendering such verdict of acquittal, shall state such ground ^{§ 3141.} _{insane criminals.} in their verdict, and shall also state in their verdict, whether the accused has since been restored to his reason, and whether he is dangerous to the community; and if the jury certify that such person is still insane and dangerous, the judge shall order him to be held in safe custody for the time being; and shall at once give notice of the case to the proper chancellor, or clerk of the chancery court, whose duty it shall be forthwith to proceed with such insane person, and his estate, according to the law relating to persons *non compos mentis*.

MISSOURI.

GOVERNMENT OF STATE ASYLUM.

1. Government vested in board of managers.
2. Managers may hold property in trust.
3. Managers, general control, purchases, rules and regulations.
4. Superintendent and officers, appointment, residence.
5. Duties of officers prescribed by managers, removal.
6. Salaries paid quarterly.
7. Treasurer, residence, bond, duties, penalties for neglect.
8. Warrants for support, how drawn and paid.
9. Actions for asylum, how brought.
10. Compensation for attorney in suit for asylum.
11. Superintendent's qualifications; not to engage in private practice, oath of office.
12. Superintendent to control employes, employ assistants, receive and discharge patients.
13. Exemption of officers from jury and road service.
14. Official seal of asylum.
15. Managers, records and reports.
16. Inspection of asylum.
17. By-laws to remain in force until altered according to law.
18. Appropriations for erecting additional buildings.

STATE ASYLUM, NO. 2.

19. Location and title.
20. Board of managers, organization; powers to construct buildings.
21. Term of office, oath, contracts.
22. Vacancies how filled.
23. Penalties for appropriating properties of asylum.
24. Powers and duties of manager similar to those of state asylum.

ADMISSION AND DISCHARGE.

25. Patients, admission and discharge of, by superintendent.
26. Private patients may be admitted on agreement.

27. Application and certificate, contents; private patient, charges and bond for support.
28. Application, form of.
29. Physician's certificate, form of.
30. Bond of private patients, form of.
31. Private patients to be supplied with clothing.
32. Indigent insane, commitment by county courts, all expenses borne by counties, money for, how raised.
33. Admitted patients supplied with clothing, list of.
34. Preferences for admission.
35. Warrant of commitment filed with superintendent.
36. History of case sent with each patient.
37. Clothing supplied at expense of county.
38. Accounts of sums due forwarded to county courts.
39. Regulations for admission, statement filed with county clerk.
40. Subpoena of witnesses.
41. Examination of witnesses; jury in discretion of court.
42. Order of court; copy filed with superintendent.
43. Fact of dangerous insanity to be set forth in statement.
44. Warrant of commitment, form of; superintendent's receipt.
45. Warrant directed to relations at their request.
46. Indigent patients to be clad, expenses of borne by counties.
47. Certificate of indigence filed with superintendent.
48. Certificate of ability for support filed with superintendent.
49. Discharge, notice of to county clerk; warrant for, form of; penalty for neglect to execute.
50. Court clerk, on neglect of duties to be removed from office.
51. Fees for commitment to be paid by county.
52. Definition of terms.

53. Indigent insane, when supported by the state.

54. Escape, proceedings upon.

EXAMINATION FOR APPOINTMENT OF GUARDIAN.

55. Investigation of insanity on information.

56. Special term of court may be held in vacation.

57. Notice to defendant; appearance in discretion of court.

58. Application of county officers.

59. On finding of insanity, guardian to be appointed.

60. Costs of proceedings, how paid, on finding of insanity.

61. Costs of proceedings, how paid, on discharge of defendant.

62. New trial in discretion of court, verdict of second jury final.

63. Guardian to have custody and care of insane.

64. Support to be awarded out of estate.

65. When dangerously insane to be committed to asylum by guardian.

66. On neglect of guardian, commitment by court.

67. Expenses of borne by estate.

68. Reimbursement of counties.

69. Support in asylum, to be awarded out of estate.

70. Definition of terms.

CRIMINAL INSANE.

71. Fact of insanity to be found in verdict of acquittal.

72. Commitment to asylum, temporary confinement in jail; expenses.

73. Indigent criminal insane, examination, commitment.

74. Temporary confinement pending removal.

75. Insane convicts, examination, suspension of sentence, transfer.

76. Insane before trial, suspension of proceedings, jury trial of insanity.

77. Finding of jury, warrant of commitment.

78. On recovery, remanded to custody.

79. Resumption of proceedings on finding of sanity.

1. The government of the state lunatic asylum* shall be under the control and direction of a board of managers, to consist of nine members, three of whom shall be competent physicians. They shall be appointed upon the nomination of the governor, by and with the advice and consent of the senate, and shall hold their offices for four years, and until their successors be duly appointed and qualified. The persons appointed managers shall be notified of their appointment by the secretary of state. When vacancies happen in the recess of the senate, they shall be filled by appointments of the governor; and the person so appointed shall serve until the meeting of the general assembly next succeeding their appointment, and until their successors be duly appointed and qualified. The persons appointed managers shall, before entering upon the duties of their office, severally take the oath prescribed in the constitution, and an oath or affirmation faithfully to discharge their duties as such managers, and to obey all laws in force relative to said asylum.

Rev. Stat. of
1879, §4102.
Government
of asylum.

2. The managers may take and hold, in trust for the state, to the use of the asylum, any lands conveyed or devised, and any money or other personal property

§ 4103.
Property to
be held, how.

* At Fulton.

given or bequeathed, to be applied to the benefit of the asylum.

3. The managers are invested with the general control and direction of the property and affairs of the institution, with power to direct such purchases as, under the advice of the superintendent, may be deemed necessary for the restoration of the insane. They shall prescribe rules, regulations and by-laws for the government, discipline and management of the asylum, and shall conduct its concerns agreeably to the requirements of law, and the rules, regulations and by-laws of the asylum.

§ 4104.
Control of
property.

4. The managers shall have authority to appoint a superintendent, assistant physicians, treasurer, steward and matron, all of whom, except the treasurer shall constantly reside in the asylum, and be designated the resident officers thereof.

§ 4105.
Appointment
of officers.

5. The managers shall, in their rules, regulations and by-laws, prescribe the duties of the respective officers, and fix the term thereof. They may, at their pleasure remove from office any officer of the asylum, save the superintendent; and they may remove the superintendent for incompetency, wilful neglect, or refusal to discharge any of his duties, or for any other misconduct which might render it unfit for him to remain in his office.

§ 4106.
Duty of offi-
cers, removal
from office.

6. The managers shall determine the annual salaries of the treasurer and of said resident officers, subject to the approval of the governor and state auditor. Such salaries shall be paid quarter-yearly to the said officers, by the treasurer of the state, upon the warrants of the state auditor, out of any appropriations made for the payment of civil officers of government, on the requisitions of the board of managers, or any two of the members thereof.

§ 4107.
Salaries of
officers, how
determined
and paid.

7. The treasurer of the asylum shall reside in the town of Fulton, Callaway county, and give bond for the faithful performance of his trust, in such sum and with such securities as shall be approved by the governor and state auditor. He shall have the custody of all moneys, notes and other obligations and securities belonging to the asylum; and out of said moneys shall make payments on such warrants or orders as may be prescribed in the by-laws of the asylum. For

§ 4108.
Duties of
treasurer.

any misfeasance, malfeasance or nonfeasance, he and his securities shall be liable, and be prosecuted therefor by direction of the board of managers.

8. For the future support of said asylum, for the payment of its debts, the advancement of its interests and the humane objects contemplated by its establishment, the appropriations made shall be payable out of the treasury, semi-annually, on the first days of March and September in each year; and it shall be the duty of the state auditor, on the requisition of the board of managers, to issue his warrant on the state treasurer, in favor of the treasurer of said institution, for the amount of each semi-annual payment, as the same shall become due and payable.

§ 4109.
Appropriation, how drawn.

9. For all debts and demands whatsoever due the asylum, and all damages for failure of contract, and for trespass and other wrongs to the asylum or any property thereof, real or personal, actions may be maintained, in the name of the "treasurer of the state lunatic asylum." Interest shall be recovered on any and all sums due the asylum from the time when the cause of action shall have accrued. In any action for an indebtedness, or for damages due the asylum on account of any patient, the account therefor, officially certified by the superintendent, shall be *prima facie* evidence of the amount due; and the impression of the official seal of the superintendent to a certificate or account, to which the signature of the superintendent is annexed, shall be *prima facie* evidence that such signature is the handwriting of the superintendent.

§ 4110.
Actions for debt, how maintained.

10. Upon the rendition of judgment in any suit instituted in behalf of the asylum, the magistrate, judge or court before whom such suit shall be tried, shall assess and tax as costs, to be paid as other costs in such cases, a reasonable attorney's fee in favor of the attorney in behalf of the asylum, and which shall be in full compensation for his services in such suit.

§ 4149.
Attorney's fees, etc.

11. The superintendent shall be a physician of knowledge, skill and ability in his profession, and of experience in the management and treatment of the insane; he shall not, while such superintendent, engage in the practice of his profession, but shall, to the exclusion of all other busi-

§ 4111
Superintendent, duties of.

ness, devote himself to the supervision and care of the asylum and its inmates. Before entering on the duties of his office, he shall take an oath or affirmation that he will diligently, faithfully and impartially discharge all the duties required of him by law.

12. The superintendent shall be the chief executive officer of the asylum, and shall have the care and control of everything connected therewith; he shall see that the several officers of the asylum faithfully and diligently discharge their respective duties; he shall employ such nurses, attendants, servants and other persons as he may think proper, and assign to them their duties, and may, at pleasure, discharge them; he shall receive such patients as shall be entitled to admission into the asylum, and discharge them therefrom: *provided*, that he shall at all times exercise the powers and perform the duties herein mentioned according to the rules and by-law of the asylum.

13. All persons employed in the asylum, while so employed, shall be exempt from serving on juries and working on roads and highways, but not from paying any property or road tax; and the certificate of the superintendent, under his official seal, shall be sufficient evidence of such employment.

14. The superintendent shall keep, at all times, for the institution, an official seal, upon which shall be inscribed the words "State Lunatic Asylum."

15. The board of managers shall keep a full and correct account of their proceedings, in books to be provided for that purpose; the officers of the asylum shall make reports to the board as it may, from time to time, require; the managers, at their annual meeting next preceding the meeting of the general assembly, shall make a full report to that body, accompanied by biennial reports of the superintendent and treasurer.

16. Two of the managers shall, together, visit the asylum monthly; a majority of them together, quarterly; and all the managers shall, together, make one visit during the year. The annual meeting of the board shall be held on the last Monday in November of each year.

17. All rules, regulations, and by-laws now in force for the

government, discipline and management of the asylum, and not inconsistent with this chapter, shall remain in force until altered, modified or repealed in the manner provided by law.

18. For the purpose of erecting and furnishing a suitable building for the accommodation and treatment of insane criminals upon the premises of the state lunatic asylum at Fulton, the sum of fifteen thousand dollars is hereby appropriated out of any money in the revenue fund in the state treasury not otherwise appropriated, to be expended for that purpose under the authority of the board of managers of said institution, subject to the approval of the governor, and it shall be the duty of the state auditor, on the requisition of said board of managers, to issue his warrant on the state treasurer in favor of the treasurer of said institution for the above amount for the purposes herein mentioned.

19. The state lunatic asylum located near St. Joseph, Missouri, shall be known as "State Lunatic Asylum No. 2."

20. The governor shall, immediately on the passage of this act, by and with the advice and consent of the senate, if in session, appoint managers for said institution, to consist of seven discreet persons, of whom at least two shall be or shall have been practitioners of medicine. The secretary of state shall at once notify said managers of their appointment, and they shall, on the first day of March, 1874, meet at such asylum, organize, and take charge of the same, subject, however, to the present possession and rights of the builders and contractors, and architect and superintendent; and upon the organization of such managers as a board, the officers of the present commissioners, and upon the completion of the present contract for the building of the edifice for said asylum, the office of the architect and superintendent, shall cease to exist and become void.

21. The managers of said asylum shall hold their office for the term of four years from the first day of March, 1874, and until their successors are appointed and qualified. If, however, said managers be appointed in the recess of the senate, then they shall only serve until the

§ 4118.
By-laws in
force.

Act of 1881,
p. 123, § 2.
Asylum for
insane criminals.

§ 4154.
Name of asylum.

§ 4155.
Appointment
of managers.

§ 4156.
Tenure, oath
and organization.

succeeding meeting of the general assembly, and until their successors are appointed and qualified. The managers shall, before entering upon the duties of their office, severally take an oath or affirmation faithfully to discharge their duties as such managers, and to obey all laws in force in relation to the asylum. On the organization of the board of managers, as herein provided, they shall have all the powers, rights and privileges, in the same manner and to the same extent and effect, in all respects, as to the enforcement and settlement of existing contracts and other duties, as are enjoyed by or have been conferred on the commissioners under the provisions of the act to which this act is amendatory, and which have not been repealed by this act. As soon as the buildings and improvements for said asylum, now under contract, are finished and accepted, the board of managers shall take such measures as they may deem proper to protect them from loss or injury, and may have the same insured.

22. If any person appointed refuse to serve as manager, the
§ 4157.
Vacancies. governor shall appoint another, and if any vacancy shall occur by death, resignation or otherwise, the governor shall fill the same by appointment; but the person so appointed shall only act as manager until the next succeeding session of the general assembly, and until his successor shall be appointed and qualified.

23. Any person, who shall, after demand made, knowingly
§ 4158.
Penalty for
converting
property. refuse to pay over or deliver to the managers of said asylum, any money, property or thing belonging thereto, or any person who shall knowingly convert to his own use any money appropriated by law, or any money or property donated or given to said asylum, or to the state for its use and benefit, shall, in addition to his civil liability, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars, or by imprisonment not less than six months in the county jail, or by both such fine and imprisonment.

24. The managers of said institution shall have all the
§ 4159.
Powers and
duties of
managers. powers, rights and privileges given to, and perform all the duties required, of the "board of managers of the state lunatic asylum," and said asylum shall, in all respects not inconsistent with the five preceding

sections, be governed by and be conducted according to the provisions of this chapter, with like powers, privileges and immunities.

25. Persons afflicted with any form of insanity may be admitted into the asylum, when the superintendent deems it probable that their condition can be improved by the care and treatment of the institution; and any patient may be discharged by the superintendent whenever he may believe that the condition of such patient cannot be improved by a longer stay in the asylum.

§ 4113.
Patients, how
admitted and
discharged.

26. Pay patients, or those not sent to the asylum by order of the court, may be admitted on such terms as shall be, by this chapter and the by-laws of the asylum, prescribed and regulated.

§ 4119.
Pay patients,
how admitted.

27. Preparatory to the admission of such patient, the superintendent shall be furnished with a request, of the form seen in section 4121, under the hand of the person by whose direction he was sent, stating his age, and place of nativity, if known, his christian and surname, place of residence, occupation and degree of relationship, or other circumstances of connection between him and the person requesting his admission; and, second, a certificate of the form seen in section 4122, dated within two months, under oath, signed by two physicians, of the fact of his being insane. Each person signing such request or certificate shall annex to his name his profession or occupation, and the township, county and state of his residence, unless this appear on the face of the document. Before any private patient shall be received into the asylum, there shall be produced to the superintendent a receipt from the treasurer of the asylum, acknowledging the payment to him of at least thirty days' charges in advance, and a sufficient bond to said treasurer, conditioned that the obligor or obligors will secure the payment of charges incurred in behalf and on account of said patient; said bond, with satisfactory securities, shall be of the form and contain the provisions as provided in section 4123. No part of said thirty days' payment shall be refunded if the patient making such payment shall be taken away, within that period, uncured, and against the consent of the superintendent.

§ 4120.
Terms of ad-
mission.

28. The request for the admission of a patient into the asy-

§ 4121. lum shall be in writing, and of the following
Form of request form, with all blanks suitably filled :

To the superintendent of the Missouri state lunatic asylum :

The undersigned, of the county of , is desirous of placing in the state lunatic asylum, at Fulton, and hereby requests the admission therein, of , a resident of the county of , who is aged , and has been (here state what the occupation of the person has been). He (or she) is a native of , in the state of , and is (here state what the relationship or circumstances of connection may be) of the undersigned (then should follow a written history of the case, including the alleged cause of insanity, when it commenced, and all the particulars thereof).

Dated day of , 18 .

29. The certificate of two physicians shall be substantially
§ 4122. of the following form, with all blanks suitably
Physicians' certificate. filled :

State of , }
County of , } ss.

We, and , of the county and state aforesaid, physicians, do hereby certify that we have this day seen and examined (here insert the name of the patient,) of the county of , and believe to be insane, and a proper patient to be sent to the state lunatic asylum.

(Signed)

The above named , being duly sworn, say that they are practicing physicians of the county aforesaid, and that the facts stated in the above certificate, by them subscribed, are true according to the best of their knowledge and belief.

(Signed)

Sworn to and subscribed before me, this day of , 18 .
J. P.

30. The bond provided for in section 4120, shall be of the following form, with blanks appropriately filled :

§ 4123. Know all men by these presents, that we, of
Form of bond. the county of , are held and firmly bound unto , treasurer of the Missouri state lunatic asylum, and his successors in office, in the sum of five hundred dollars, for the payment of which we, jointly and severally, bind ourselves firmly by these presents, sealed with our seals and dated this day

of , 18 . The condition of this obligation is such that, whereas, , of the county of , in the state of , and who is insane, has been admitted a patient in the Missouri state lunatic asylum, at Fulton; now, therefore, the condition of this obligation is, that if the said obligors shall pay to the said treasurer, or his successors in office, the sum of dollars and cents per week, for the board of said patient, so long as he shall continue in said asylum, with such extra charges as may be occasioned by requiring more than ordinary care and attention, and shall provide for suitable clothing, and shall pay for all necessary articles of clothing as shall be procured for , by the steward of said asylum, and shall remove from said asylum, whenever required to do so by the superintendent; and if he shall be removed by either of us, or by any one, before the expiration of three calendar months after reception, then, if said obligors shall pay board for thirteen weeks, unless should be sooner cured; and if they also pay not exceeding fifty dollars, for all damages said may do to the furniture or other property of the asylum, and for reasonable charges in case of death, such payment for board and clothing to be made in advance, quarter annually, on the first day of October, January, April and July of each year, and at the time of removal, or in case of death, within one month thereafter, with interest on each bill from and after it becomes due, then this obligation to be void; otherwise, to remain in full force.

, [L. S.]

, [L. S.]

Those that take private patients to the asylum must be prepared to give such bond, and, if strangers, evidence must be taken of their responsibility.

31. Before pay patients shall be received into the asylum, they shall be provided, by those accompanying ^{§ 4124.} them, with suitable changes of raiment, of the kind, ^{Clothing of} ^{patients.} quantity and quality specified in section 4126 of this chapter, to be provided for the insane poor; and whenever pay patients shall be in need of clothing, the steward of the asylum shall, under the direction of the superintendent, furnish the same, at the cost of those executing the bond provided for in the last preceding section.

32. The several county courts shall have power to send to the asylum such of their insane poor as may be entitled to admission thereto. The counties thus sending shall pay, semi-annually, in cash, in advance, such sums for the support and maintenance of their insane poor as the board of managers may deem necessary, not exceeding two dollars and fifty cents per week for each patient, and in addition thereto the actual cost of their clothing, the expense of removal to and from the asylum, and, if they shall de cease therein, for burial expenses; and in case such insane poor shall die or be removed from the asylum before the expiration of the six months, it shall be the duty of the managers of such asylum to refund or cause to be refunded, the amount that may be remaining in the treasury of such asylum due to the county entitled to the same; and for the purpose of raising the sum of money so provided for, the several county courts shall be and they are hereby expressly authorized and empowered to discount or sell their warrants issued in such behalf, whenever it becomes necessary to raise said moneys so provided for. And said asylum is hereby expressly prohibited from receiving any county warrant in payment of any such sum as may be due by this section.

33. Any county court sending patients to the asylum, shall, before sending them, see that they are free from any contagious disease, in a state of perfect bodily cleanliness and comfortably clothed, and provided with suitable changes of raiment, as herein prescribed; if a male, with at least two new shirts, a new and substantial coat, vest, and pantaloons, of strong woollen cloth, two pairs of woollen socks, a black stock or cravat, a good hat or cap, a pair of new shoes or boots, together with a comfortable outside garment; if a female, in addition to the same quantity of undergarments, shoes and stockings, a flannel petticoat, two good dresses, and a cloak or outside garment. In case the patient be so much excited as not to admit of being thus clothed, other clothing that can be kept on, that is comfortable and in sufficient quantity, with a change thereof, may be substituted. Extra and better apparel should be sent with the patients, that, when their health is improved and when they attend religious worship, walk or ride out, it may be used, if deemed necessary.

§ 4125.
Charges
against coun-
ties for ad-
mission of
patients.

§ 4126.
Duty of court
before send-
ing patient.

34. The indigent insane of this state shall always have the preference over those who have the ability to pay ^{§ 4127.} for their support in the asylum; and if there are ^{Indigent insane.} not provisions in the asylum for the accommodation of all the insane persons in the state, then recent cases of insanity, by which term are meant cases of less than one year's standing, shall have preference over cases of more than one year's standing; *provided*, no county shall have in the institution more than its just proportion, according to its insane population.

35. Whenever a patient is sent to the asylum, by the order of any court or officer having authority to make such ^{§ 4128.} order, the warrant, or copy of such order properly ^{Order of county court to be lodged with supt.} authenticated, by which such patent is sent, shall be lodged with the superintendent.

36. There shall be sent with each patient a detailed account of his or her case, as far as practicable, stating the ^{§ 4129.} cause of his or her insanity, its duration, the former ^{Cause of insanity to be sent.} treatment of the patient, and all other particulars relating to the patient, and his or her disease; and, if possible, some one acquainted with the individual should accompany him or her to the asylum, from whom minute and essential particulars of his or her insanity may be learned.

37. When poor patients shall be in need of clothing, it shall be the duty of the steward, under the direction of ^{§ 4130.} the superintendent, to furnish the same, at the cost ^{Clothing of poor patients.} of the county court sending them.

38. The superintendent shall, under the direction of the managers, cause, once in every six months, to be ^{§ 4131.} made out and forwarded to any county court which ^{Accounts, when and by whom made out.} may send to the asylum an insane poor person, an exact account of the sum due and owing by such court on account of such insane person. Said court, at its first session thereafter, shall proceed to allow, and cause to be paid over to the treasurer of the state lunatic asylum, the amount of said account.

39. For the admission of county court patients, the following proceedings shall be had: some citizen residing ^{§ 4132.} in the proper county shall file, with the clerk of ^{Admission of county patients.} the county court of such county, a statement, in writing, which shall be substantially as follows:

State of Missouri, }
County, } ss.

The undersigned, a citizen residing in the county and state aforesaid, hereby states that is insane; that his insanity is less than years' duration; that he has not estate sufficient to support him at the state lunatic asylum, and is a resident of said county and state aforesaid. These facts can be proven by and , (naming at least two persons, one of whom shall be a respectable physician).

Dated this day of , A.D. 18 .

(Signed)

A. B.

40. The clerk shall thereupon issue subpoenas for the persons
§ 4133.
Same, continued. named as witnesses, and such other persons as he may think proper, commanding them to appear before his county court, at a specified time, which time shall be the first day of the first session of such court thereafter, to testify concerning the facts set forth in said statement. Subpoenas may also be issued for witnesses in behalf of the person alleged to be insane.

41. At the time appointed, unless the investigation shall be
§ 4134.
Same, continued. adjourned over to some other time, the said court shall cause the witnesses in attendance to be examined before themselves, or a jury, if one be ordered for the purpose, duly chosen and impaneled, according to the practice of the court. At least one of the witnesses examined shall be a respectable physician.

42. If, after such examination, the court, or the jury, if one
§ 4135.
Same, continued. shall have been employed, shall be satisfied of the truth of the facts set forth in the statement, the court shall cause a suitable order to be entered of record, upon their own decision, or, where the verdict of the jury has been rendered, upon the verdict. And such order shall further set forth that the person found to be insane is a fit subject to be sent to the state lunatic asylum, to undergo treatment therein; and shall further require the medical witness forthwith to make out such a detailed history of the case as is required by section 4129; and, also, that the costs of this examination be paid out of the treasury of the county; and, also, that the clerk of the court forthwith forward a certified copy of said order of court to the superintendent of the asylum, accompanying the same

with a request of admission of the person found to be insane into the asylum.

43. If a person, alleged to be insane, would be dangerous to the safety of the community, by being at large, this additional fact shall be set forth in the written statement required by section 4132, and in the order of court required by section 4135.

§ 4136.
Additional
facts, when to
be set forth.

44. The clerk of the county court shall forthwith transmit to the superintendent of the asylum, a copy of such order, under his official seal, with his application for the admission of such person into the asylum. Upon receiving the application and the official copy of the order of court, the superintendent shall immediately advise the clerk whether the patient can be received, and, if so, at what time. The clerk shall thereupon, in due season for the conveyance of such person to the asylum by the appointed time, issue his warrant to the sheriff of his county, or any other suitable person, commanding him forthwith to arrest such insane person, and convey him to the state lunatic asylum. If the clerk be satisfied of its necessity, he may authorize one or more assistants to be employed. Said warrant shall be substantially as follows:

§ 4137.
Duty of clerk
of county
court.

State of Missouri, }
County of , } ss.

The state of Missouri to

Whereas, all the proceedings necessary to entitle to be admitted into the state lunatic asylum, as a county patient, have been had according to law, you are hereby commanded forthwith to arrest said person, and convey him to said asylum; and you are authorized to take to your aid assistants, if deemed necessary by you. After executing this warrant, you shall make due return thereof to this office.

Witness my hand and seal of office, this day of ,
A. D. 18 .

, Clerk.

Upon receiving said patient the superintendent shall endorse upon said warrant a receipt substantially as follows:

State lunatic asylum, A. D. 18 .

Received this day, of the patient named in the
within warrant.

, Superintendent.

This warrant with the receipt thereon, shall be returned to the clerk who issued the same, and shall be filed by him with the other papers relating to the case.

45. The relatives of the insane person shall have the right, if they choose, to convey him to the asylum. In such case the warrant shall be directed to one of them; and the person to whom it is directed and his assistants shall, if demanded, receive the same compensation allowed for the like services to the sheriff.

§ 4138.
Relatives
may convey
to asylum.

46. When a county patient is sent to the asylum it shall be the duty of the clerk to see that the patient is supplied with the proper clothing, specified in section 4126, and, if not otherwise furnished, the clerk shall purchase it; and, in such case, the same shall be paid for out of the county treasury, by order of the county court.

§ 4139.
Clerk's duty.

47. If the county court of the proper county shall so order, the clerk thereof shall transmit to the superintendent a certificate, under his official seal, setting forth that any patient in the asylum has not estate sufficient to support him at the asylum. Upon the receipt of such certificate by the superintendent, such person shall be a county patient of such county, and shall be supported by such county, as provided by this chapter in the cases of poor patients.

§ 4140.
When pay pa-
tients to be-
come county
patients.

48. If the county court of the proper county shall so order, the clerk thereof shall transmit to the superintendent a certificate, under his official seal, setting forth that any county patient in the asylum, from his county, has sufficient estate to support and maintain him at the asylum. After the receipt of this certificate, the patient shall be a pay patient; and in such cases, charges shall be made out and paid, and a bond shall be required and executed, as in all other cases of pay patients; and, upon a failure thereof, after reasonable delay, the superintendent shall discharge such patient, in the manner as provided in this chapter in case of poor persons.

§ 4141.
When county
patient to be-
come pay pa-
tient.

49. Whenever the superintendent shall desire the removal from the asylum of any county patient, he shall give notice thereof, under his official seal, to the clerk of the county court of the county from which such patient was sent; and thereupon such clerk shall forth-

§ 4142.
Removal of
county
patients.

with issue his warrant to the sheriff of said county, which warrant shall be substantially as follows:

State of Missouri, }
County, } ss.

The state of Missouri, to

Whereas, the proper authority has directed that a patient in the state lunatic asylum, from this county, be removed from said asylum. You are, therefore, hereby commanded, with an assistant, if deemed necessary by you, forthwith to remove said patient and return him to this county, where he had a legal settlement when he was taken to said asylum.

Witness my hand and seal of office, this
day of , A.D. 18 .

Immediately upon receiving such warrant, it shall be the duty of the sheriff, by himself or deputy, with such assistance as he may deem proper and is authorized to take, forthwith to execute the same, and to return it to the clerk by whom it was issued, showing, by proper indorsement, the manner of its execution. And if any clerk, upon receiving such notice, shall refuse or neglect, for the space of five days, to issue and place such warrant in the hands of the sheriff, or if such sheriff shall refuse to receive the same, or shall neglect, for the space of twenty days after receiving the warrant, to demand such patient of the superintendent, the patient shall be charged, from the date of the notice, to the clerk or sheriff so offending, until his removal, at the same rates as pay patients; and the amount of such charge may be recovered against the officer so offending, with costs of the suit, in the name of the treasurer of the asylum, as provided by this chapter in other cases.

50. If any clerk shall neglect to perform any duties enjoined upon him by this chapter, he shall be removed from office in the same manner as for neglect of any duty.

§ 4150.
Clerk may be
removed,
when.

51. To the sheriff or other person, for taking a patient to the asylum, or removing one therefrom, upon the warrant of the clerk, mileage, going and returning, at the rate of ten cents per mile, and seventy-five cents per day for the support of each patient on his way to or from the asylum, shall be allowed; to each assistant allowed by the clerk

§ 4151.
Compensation
allowed.

and accompanying the sheriff, or other person acting under the warrant of the clerk, mileage at the rate of eight cents per mile for going and returning shall be allowed; the computation, in both instances, to be made from the place of arrest to the asylum, by the nearest route usually traveled. The costs specified in this section shall be paid out of the county treasury of the proper county.

52. The terms "insane" and "lunatic," as used in this chapter include every species of insanity or mental derangement. The words "insane poor," or "indigent insane," when applied to a person without a family, shall mean one whose estate, after payment of his debts, and excluding from the estimates such part of his estate as is exempt from execution, is worth less, in cash, than three hundred dollars; and the same words, when applied to a person having a family, shall mean one whose estate, estimated as aforesaid, is worth less, in cash, after payment of his debts and the support of his family for one year, than one thousand dollars; *provided*, that when the said words are applied to a married woman, her estate and that of her husband shall be estimated as aforesaid, and the amount shall determine the question aforesaid, whether she be a "poor" person or not, within the meaning of this chapter. A person with a family is one who has a wife and child, or either; county patients are those supported in the asylum at the expense of the counties sending them; pay or private patients are those supported in the asylum by their friends, or from the proceeds of their own property. Every word in this chapter importing the masculine gender shall extend and be applied to females as well as males; and any word, importing the singular number only, or the plural number only, may be applied to one person or thing as well as to several persons or things.

53. No person shall be entitled to the benefits of the provisions of this chapter as a county patient, except persons whose insanity has occurred during the time such person may have resided in the state, and except the insane poor, under sentence as criminals, as provided in sections 4143 to 4147 inclusive, of this chapter. Every patient in the asylum shall be deemed to be the county patient of the county first sending him, till one year after his regular discharge from the asylum.

§ 4152.
Terms construed.

§ 4153.
Who entitled to benefits of this chapter.

54. Should any insane person escape from the asylum and return to the county from which he was committed, § 4148. it shall be the duty of the sheriff of said county, Of escaped lunatics. upon being notified by the superintendent, forthwith to apprehend him and take him back to the asylum; and the sheriff shall be paid by the steward of the asylum, by order of the superintendent, the same fees as are provided in other cases for the commitment of insane persons to the asylum. No patient who has committed homicide shall be discharged without the consent of the superintendent, and the written admission of a majority of the board of managers.

55. If information in writing be given to the probate court that any person in its county is an idiot, lunatic or person of unsound mind, and incapable of managing his affairs, and praying that an inquiry there- § 5787. into be had, the court, if satisfied that there is good cause for the exercise of its jurisdiction, shall cause the facts to be in- Probate court to inquire as to sanity, etc. quired into by a jury.

56. Such information may also be given, in the vacation of such court, to the judge thereof; in which event § 5788. he shall call a special term of the court, for the pur- Special term may be held. pose of holding an inquiry whether the person mentioned in such information be of unsound mind or not.

57. In proceedings under this chapter, the alleged insane person must be notified of the proceeding, unless the probate court order such person to be brought before § 5789. the court, or spread upon its records of the pro- Party under investigation to be notified. ceedings the reason why such notice or attendance was not required.

58. Whenever any judge of the county court, justice of the peace, sheriff, coroner or constable shall discover § 5790. any person, resident of his county, to be of unsound Duty of certain officers. mind, as in section 5787 mentioned, it shall be his duty to make application to the probate court for the exercise of its jurisdiction; and thereupon the like proceedings shall be had as in the case of information by unofficial persons.

59. If it be found by the jury that the subject of the inquiry is of unsound mind and incapable of manag- § 5791. ing his or her affairs, the court shall appoint a Guardian appointed when guardian of the person, and estate of such insane person.

60. When any person shall be found to be insane according to the preceding provisions, the costs of the proceedings shall be paid out of his estate, or, if that be insufficient, by the county.

§ 5792.
Costs, when
paid by
county.

61. If the person alleged to be insane shall be discharged, the cost shall be paid by the person at whose instance the proceeding is had, unless said person be an officer, acting officially according to the provisions of this chapter, in which case the costs shall be paid by the county.

§ 5793.
When by
party causing
the inquiry.

62. The court may, if just cause appear, at any time during the term in which an inquisition is had, set the same aside, and cause a new jury to be impaneled to inquire into the facts; but when two juries concur in any case the verdict shall not be set aside.

§ 5794.
Court may set
aside inquisi-
tion.

63. Every such guardian shall take charge of the person committed to his charge, and provide for his support and maintenance as hereinafter directed.

§ 5799.
Guardian to
take charge
of person.

64. Every probate court, by whom any insane person is committed to guardianship, may take an order for the restraint, support, and safe keeping of such person, for the management of his estate, and for the support and maintenance of his family, and education of his children, out of the proceeds of such estate; to set apart and reserve for the payment of debts, and to let, sell or mortgage any part of such estate, real or personal, when necessary for any of the purposes above specified.

§ 5805.
Court may
order re-
straint of
ward.

65. If any person, by lunacy or otherwise, shall be furiously mad, or so far disordered in his mind as to endanger his own person or the person or property of others, it shall be the duty of his or her guardian, or other person under whose care he or she may be, and who is bound to provide for his or her support, to confine him or her in some suitable place until the next sitting of the probate court for the county, who shall make such order for the restraint, support, and safe keeping of such person as the circumstances of the case shall require.

§ 5828.
Insane may
be confined,
when.

66. If any such person of unsound mind, as in the last preceding section is specified, shall not be confined by the person having charge of him, or there be no person having such charge, any judge of a court of

§ 5929.
Certain
officers may
order confine-
ment.

record, or any two justices of the peace, may cause such insane person to be apprehended, and may employ any person to confine him or her in some suitable place, until the probate court shall make further orders therein, as in the preceding section specified.

67. The expenses attending such confinement shall be paid by the guardian out of his estate, or by the person § 5830. Costs, how paid. bound to provide for and support such insane person, or the same shall be paid out of the county treasury, upon the order of the county court, after the same shall be duly certified to them by the probate court.

68. In all cases of appropriations out of the county treasury for the support and maintenance or confinement of § 5831. Appropriations by county may be recovered. any insane person, the amount thereof may be recovered by the county from any person who, by law, is bound to provide for the support and maintenance of such person, if there be any of sufficient ability to pay the same.

69. If any insane person be admitted into the state lunatic asylum as a patient, the guardian shall pay for his § 5832. Expenses, when ordered to asylum. support and expenses at such asylum, out of the estate of such ward; and if such insane person shall, at any time, come under the class of "insane poor person," as specified in the law for the government of the state lunatic asylum and the care of the insane, such person shall be supported and maintained at such asylum by the county in the manner provided by such law.

70. For the purposes of this chapter wherever the words "person of unsound mind," or "insane person" § 5836. Certain terms construed. occur therein, said words shall be construed to mean either an idiot, or a lunatic, or a person of unsound mind and incapable of managing his own affairs, as the case may be, upon proof as aforesaid.

71. When a person, tried upon indictment for any crime or misdemeanor, shall be acquitted on the sole ground § 4143, as amended 1883, p. 78. Insane criminals acquitted, jury to determine whether yet recovered. that he was insane at the time of the commission of the offense charged, the fact shall be found by the jury in their verdict, and by their verdict the jury shall further find whether such person has or has not entirely and permanently recovered from such insanity;

and in case the jury shall find in their verdict that such person has so recovered from such insanity, he shall be discharged from custody; but in case the jury shall find such person has not entirely and permanently recovered from such insanity, the prisoner shall be dealt with as provided in the two following sections.

72. If the prisoner is not a poor person, and the court is § 4144.
When sent to
asylum. satisfied, from the nature of the offense or otherwise, that it would be unsafe to permit the prisoner to go at large, an order shall be entered of record that he be sent to the asylum, and further requiring the sheriff or other ministerial officer of the court, with such assistance as may be specified in the order, to convey such prisoner to the asylum, after first ascertaining from the superintendent that such prisoner will be received into the asylum, and until the receipt of such information, to keep such prisoner in the county jail, poor-house or other safe custody; and, further, that the costs which may accrue in carrying into effect this order, and all expenses for the support and maintenance of such person, whilst in the care and custody of the officer and at the asylum, shall be paid out of the proceeds of the estate of such person. And the court shall have power, at each succeeding term, to tax up, so long as it may be necessary, such cost and expenses as may have accrued since the preceding term, and cause the same to be levied and collected by execution; and the officer collecting the same shall pay to the treasurer of the asylum, and to such other persons as may be entitled thereto, their respective amounts due. The clerk of the court shall furnish a copy of the order of the court, under his official seal, to be lodged with the superintendent, upon the admission of the prisoner into the asylum, and issue a warrant upon said order to the officer named in said order, as near as may be of the form specified in section 4137.

73. If the prisoner be a poor person, the court shall make an § 4145,
as amended
1881, p. 142,
§ 1.
Proceedings
when prisoner
is a poor
person. order remanding him to the custody of the sheriff or other officer of court, requiring him to hold the prisoner in safe custody, at the expense of the proper county, until the county court shall cause him to be removed to the asylum, as in the cases of insane poor persons; *provided*, no examination into the insanity of

the prisoner shall take place before the county court as provided in sections 4132, 4133, 4134 and 4135; but the county court and clerk thereof shall proceed, and the prisoner be dealt with in like manner as other insane poor persons are required to be, after examination had by the county court. It shall be the duty of the clerk of the court trying the prisoner to make out a copy, under his official seal, of the judgment of acquittal of the prisoner, and of the order required by the first part of this section, to be delivered to the officer having custody of the prisoner for his authority for such custody.

74. The sheriff or other officer having the custody of insane persons, as required in sections 4144 and 4145, ^{§ 4146.} shall, if he deem it necessary to their safe custody, ^{if in custody, how confined.} confine them to the county poor-house or county jail until they shall be removed to the asylum; and if all things needful be not otherwise supplied, he shall furnish them; and, in such cases, the supplies for the insane poor shall be paid for by the proper county courts out of the county treasuries; and supplies for others than the insane poor shall be paid out of their estates, and may be recovered by suit in the name of such officer.

75. If any person, after having been convicted of any crime or misdemeanor, become insane before the execution or expiration of the sentence of the court, it shall be the duty of the governor of the state to inquire into the facts, and he may pardon such lunatic, commute or suspend, for the time being, the execution of such sentence, and may, by his warrant to the sheriff of the proper county, or the warden of the penitentiary, order such lunatic to be conveyed to the insane asylum, and there kept until restored to reason. If the sentence of such lunatic is suspended by the governor, it shall be executed upon him after such period of suspension has expired; and the expense of conveying such lunatic to the asylum shall be audited and paid out of the fund appropriated for the payment of criminal costs, but the expenses at the asylum for his board and clothing shall be paid as is provided in sections 4144 and 4145, as the case may be; and for this purpose the same power is vested in the governor as is vested by the respective sections in the court trying the case.

§ 4147,
as amended
1891, p. 123,
§ 1.
Criminals be-
coming insane
after convic-
tion.

76. If any person indicted for any crime in this state, shall, after his indictment and before his trial on such charge, become insane, and the circuit or criminal court wherein such person stands charged, shall have reason to believe that such person has so become insane, it shall be the duty of such court to suspend all further proceedings against such person under said charge, and to order a jury to be summoned to try and decide the question of the insanity of such person, and said judge shall notify the prosecuting attorney of the pendency of such inquiry. The alleged insane person shall be notified of such proceedings unless the court order such person to be brought before it.

Act of 1883,
p. 79, § 1.
Prisoners to
have jury to
determine
their sanity
before trial.

77. If upon such inquiry the said jury shall become satisfied that such person has so become insane, they shall so declare in their verdict, and the court shall, by proper warrant to the sheriff, marshal or jailer, order such person to be conveyed to the lunatic asylum and there kept until restored to reason. And such person shall be thereupon disposed of, and the costs and expenses of conveying him to said asylum and of his support and maintenance at said asylum shall be taxed, paid and collected as provided in section 4144 or as provided in section 4145 of the Rev. Stat. as amended. * * *

Ibid § 2.
If insane, to
be taken to
asylum
Expenses,
how paid.

78. When such person shall be restored to reason he shall be returned to the county whence he came, and the proceedings against him shall be continued and be prosecuted, and his trial had as though no such inquiry and proceedings thereon, as herein provided, had been made and had.

Ibid § 3.
When re-
stored to
reason to be
tried.

79. If upon such inquiry it shall be determined that said person has not so become insane as aforesaid, the criminal proceedings against him shall be continued and prosecuted, and his trial had in the same manner as though no such inquiry had been made and had.

Ibid § 4.
If not insane
prosecution
to continue.

MONTANA.

CARE OF INSANE.

1. Board of commissioners, appointment.
2. Term of office.
3. Oath of office, bond, interest in contracts forbidden.
4. Organization of board.
5. Secretary, duties of; contracts of commissioners.
6. Commissioners to prescribe rules for care of insane; sealed proposals.
7. Commissioners, power to contract.
8. Inspection of insane.
9. To certify quarterly to auditor amounts due contractors.
10. Contractors to provide suitable building for insane, and notify probate court.
11. Inquisition of lunacy proceedings.
12. Failure to fulfil contract; power of commissioners, liability of surety.
13. All insane to be supported by the territory.
14. Commissioners, compensation.
15. To certify expenses to auditor.
16. Probate judge or commissioner, compensation.
17. Sheriff, fees; audit and payment.
18. Commissioners to report to legislature; vacancies.
19. Removal of insane from territory, upon authority of governor.

20. Auditor to draw warrant for expense of removal.
21. Maintenance of indigent insane; duty of governor.
22. Commitment of insane wards, proceedings.

CRIMINAL INSANE.

23. Non-accountability to law.
24. Insane convicts, inquisition of lunacy, transfer to asylum.
25. On recovery, remanded to prison.
26. Probate judge and sheriff, fees.
27. Insane after sentence of death, jury summoned.
28. Proceedings before jury.
29. Stay of execution during insanity.
30. Sheriff to transmit inquisition to governor; on recovery, warrant of execution to issue.
31. Suspension of judgment during insanity.
32. Defendant insane before judgment, jury impaneled, commitment.
33. No person to be tried while insane.
34. Insane upon arraignment, proceedings.
35. Commitment when found insane.
36. On recovery, remanded to custody.
37. Expenses of insane criminal when there is no fund provided by the territory.

1. There shall be elected during the present session of the legislative assembly of the territory of Montana, and biennially at each regular session thereof, by the legislative assembly, in joint convention assembled, one commissioner from each of the judicial districts, as the same are or may be established by law in this territory, who shall constitute the board of commissioners for the insane of Montana territory, and who shall exercise the powers and perform the duties hereinafter mentioned.

R. S. of 1879,
div. 5, § 701.
Three commissioners to be elected by legislature, to have direction over insane.

2. Said commissioners shall hold their offices respectively for the term of two years, and until their successors shall be elected and qualified.

Ibid § 702.
Commissioners to hold office for two years.

3. It shall be the duty of the secretary of the legislative council, immediately, to notify the persons who may be elected under the provisions of this article, of their election, by transmitting to each of them, by the most speedy and reliable means, a copy of the proceedings of such joint convention relating to said election; and the person so elected shall, within ten days after such election, take and subscribe to the following oath: I, A. B., do solemnly swear that I will truly and faithfully discharge the duties of a member of the board of commissioners for the insane of Montana territory; that I will carefully guard against any and all improper expenditures of money in all transactions connected with said board; and that I am not now, and will not be during the continuance of my official term, directly or indirectly interested in any bid or contract made by said board. Who shall give a joint bond in good and sufficient security for the faithful performance of their duty, in the sum of twenty thousand dollars, which oath and bond shall be filed with the secretary of the territory.

Ibid § 703.
Commissioners to take oath and give bond.

4. It shall be the duty of the board of commissioners aforesaid, as soon as practicable after taking the oath aforesaid, and within forty days after their election, to meet at any place within the judicial districts they may agree upon, and shall organize by electing one of their number as president, and one of them as secretary, of said board.

Ibid § 704.
Commissioners to meet and organize.

5. The secretary shall keep and preserve written minutes of all proceedings of said board, and shall deliver the same to his successor, and each one of said commissioners shall have one vote in determining any question or transacting any business by said board, and all contracts of said board shall be executed in the name of the territory of Montana, by the president and secretary of such board.

Ibid § 705.
Secretary to preserve proceedings of board; contracts, how executed.

6. The said commissioners shall have the power to prescribe all necessary rules for the proper custody, maintenance, and treatment of all persons adjudged insane, as hereinafter provided, within this territory; and it shall be their duty to publish the same, inviting sealed proposals, within a period of thirty

Ibid § 706.
Commissioners to prescribe rules for the custody of insane and to advertise for sealed proposals.

days thereafter, for the custody, maintenance, and treatment of such insane persons in accordance with such rules; which publication shall be made in some newspaper published in each one of said districts in which a newspaper shall be published, and the first number of which newspaper containing such publication shall be published at least thirty days before any contract shall be made by said commissioners by virtue of this article. All proposals tendered in pursuance of said publication shall be accompanied by a bond in the sum of twenty-five thousand dollars, with sufficient sureties, to be approved by the president of said board, conditioned for the faithful performance of the terms of the contract in case such proposal shall be accepted.

7. Said commissioners shall canvass all proposals received in accordance with said publication, and they are hereby authorized and empowered to contract on behalf and in the name of the territory of Montana, with the lowest and best bidder, for the care, custody, and maintenance of such insane persons in accordance with the requirements published as aforesaid; but said commissioners shall have and reserve the power to reject any and all of such proposals; and such contracts shall require the person or persons entering into the same to receive all persons adjudged insane and delivered to him or them, as hereinafter provided; and to keep, maintain, and treat them in accordance with the requirements of said commissioners; and shall specify the compensation agreed upon for each of such insane persons.

*Ibid § 707.
Commissioners to contract with lowest bidder for care and maintenance of insane.*

8. Said commissioners shall, at all times, have free access to said insane persons, and it is hereby made their duty to elect one of their board, whose duty it shall be to visit and inspect the condition of all insane persons provided for by this article, at least once in three months.

*Ibid § 708.
One of commissioners to visit and inspect insane once in three months.*

9. The said commissioners shall, upon the application of the person or persons having the custody of said insane persons, under such contract, at the end of each quarter, certify to the territorial auditor the amount due to such person therefor; and it shall be the duty of such auditor to draw his warrant upon the terri-

*Ibid § 709.
Commissioners to certify amount due for maintenance of insane to auditor.*

torial treasurer for such amount payable out of the moneys hereinafter appropriated.

10. The said contract shall require the person or persons entering into the same to provide and keep a secure and suitable building for the safe and proper keeping of such insane persons in the manner prescribed by said commissioners; and such person shall immediately transmit and cause to be filed in the office of the probate judge in each county in the territory a notification of the place at which insane persons from such county shall be delivered for safe keeping and treatment under the provisions hereof.

11. From and after the passage of this article, it shall be the duty of the probate judge, or, in his absence or inability to act, the chairman of the boards of the county commissioners of the several counties of this territory, upon the application of any person under oath, setting forth that any person, by reason of insanity, is unsafe to be at large, or is suffering under mental derangement, to cause the said person to be brought before him at such time and place as he may direct, and the said judge or commissioner shall also cause to appear, at the same time and place, a jury of three citizens of his county, one of whom shall be a licensed practicing physician, who shall proceed to examine the person alleged to be insane, and if such jury, after careful examination, shall certify, upon oath, that the charge is correct, and the said probate judge or commissioner is satisfied that such person, by reason of insanity, is unsafe to be at large, or is incompetent to provide for his or her own proper care and support, and has no property applicable to such purpose, and has no kindred in the degree of husband or wife, father or mother, children, or brother or sister, living within this territory, of sufficient means and ability to provide for such care and maintenance, or if he or she have such kindred within the territory, and such kindred fail or refuse to properly care for and maintain such insane person, such judge or county commissioner shall make out duplicate warrants, reciting such facts, and place them in the hands of the sheriff of said county, who shall immediately, in compliance therewith, convey the person or persons therein named, and deliver him, her or them, to the contractor aforesaid, at the place des-

Ibid § 710.
Contractor to
provide a suit-
able building
for the insane.

Ibid § 711.
Probate judge
or county com-
missioners to
have insane
person
brought be-
fore him, sum-
mon jury; pro-
ceedings
thereon.

igned in the notification herein required, and such contractor shall acknowledge, by endorsement in writing, upon the back of each of said warrants, the delivery of such persons described therein to him, and the date thereof; and such sheriff shall return one of said warrants to the officer issuing the same, and forward the other to the secretary of the board of commissioners aforesaid, who shall file and preserve the same.

12. In case such contractor shall fail to perform his agreement, said commissioners may declare said contract annulled, and may proceed to re-advertise and re-let the same, in the meantime provide for the custody and care of such insane persons as may be under the care of such contractor, and such contractor and his sureties shall be liable for all damages sustained by reason of such failure.

*Ibid § 712.
Commissioner
may annul
contract and
re-let it.*

13. All persons hereafter adjudged insane under the laws of this territory, whether indigent or not, shall be cared for by the territory, under the contract made by the governor of the territory, as now provided for the care and maintenance of indigent insane; and no person so adjudged insane shall be refused admission into any asylum provided by the territory, nor shall the territory ask or receive any compensation therefor.

*Act of 1883,
p. 112.
All insane to
be admitted
without
charge.*

14. Said commissioners shall each be allowed the sum of six dollars for each day they may be actually and necessarily engaged in the discharge of their duties as herein prescribed, and twenty cents for each mile actually and necessarily traveled by them in performance of such duties.

*Div. 5, § 714.
Pay and al-
lowance of
commis-
sioners.*

15. Said commissioners shall certify to the territorial auditor such amounts as may be payable for expenses incurred by virtue hereof, and the auditor shall draw his warrant upon the territorial treasurer therefor.

*Ibid § 715.
Commission-
ers to certify
amount to au-
ditor.*

16. There shall be allowed to the probate judge or commissioner the following fees: for the examination, to include all necessary entries, three dollars; for each warrant issued, one dollar.

*Ibid § 716.
Fees of probate judge or
county commissioners
for examination.*

17. And there shall be allowed to the sheriff the following fees: for arresting and bringing the person charged with insanity before the probate judge, or, in the absence of the probate judge, the chairman of the county com-

*Ibid § 717.
Fees of sheriff
for services.*

missioners, and subpoenaing witnesses, the same fees as are allowed by law in other cases; for taking an insane person to the place designated by the probate judge or chairman aforesaid, five dollars per day for the time necessarily employed, and twenty cents for each mile necessarily traveled, and all necessary disbursements for the support of the insane person, to be audited by the county commissioners, and paid out of the county treasury of the county in which said person shall be adjudged insane.

18. It shall be the duty of said board of commissioners to make full report of all their proceedings under this article to the legislative assembly at such regular session thereafter; and in case a vacancy occurring in said board during a recess of the assembly, the governor shall designate some suitable person to fill such vacancy until the next meeting of the legislative assembly.

19. Hereafter whenever the friends or relatives of any inmate of the Montana insane asylum shall apply for assistance or permission to remove any patient in said asylum from thence to his or her friends or relatives in any state or territory, the governor of this territory is hereby authorized and empowered to have such insane person conveyed to his or her relatives or friends, at the expense of the territory of Montana, if he shall deem such action conducive to the interests of this territory, and the welfare of the insane person.

20. The territorial auditor is hereby authorized and instructed to draw warrants on the territorial treasurer in favor of the governor of this territory for such amounts, and at such times as may be required for the purpose mentioned in section 720 of this article.

21. The governor is hereby authorized by publication for three weeks in a newspaper published at the capital of the territory, inviting proposals for the care and maintenance of the indigent insane of Montana territory, and to let the contract to the lowest responsible bidder; but the governor shall have the right to reject any and all bids, and to make a private contract, provided such contract can be made at a less price than any bids made under publication for proposals, and that such indigent insane shall be maintained

Ibid § 718.
Commission-
ers to report
to legislature;
governor to fill
vacancy.

Ibid § 720.
Removal of
insane from
the territory.

Ibid § 721.
Same subject.

Ibid § 722.
Indigent
insane.

under such contract so long as in the judgment of the governor the interests of the territory will be subserved thereby; and that upon the receipt of any account for such maintenance the governor shall certify to the same, if it be correct, and thereupon it shall be the duty of the territorial auditor to draw his warrant upon the territorial treasurer for an amount of money sufficient to pay therefor; *provided*, that the governor shall not contract, under this resolution, for a period extending beyond the completion of the asylum for the insane; and, *provided further*, that whenever, in the judgment of the governor, it is desirable to send such insane person to friends out of the territory, he may do so at the expense of the territory; and whenever in his judgment, the interests of such insane persons, and of the territory will be promoted by changing the said contract to some other institution or person, at a rate not exceeding that mentioned in said communication, he may do so, and the expenses shall be paid by warrants drawn on the territorial treasurer, to be sold by the auditor, to raise the money herein authorized to be expended; *provided, further*, that the costs necessarily attending the adjudication of insanity, and transportation of any insane persons to the place provided for their care and maintenance, shall be paid by the county where such insane person resides at the time he may be adjudged to be insane; *provided, further*, that idiotic persons shall be classed with insane persons under the provisions of this article, and the word "maintenance" in this article, shall be construed to mean and include medical attendance.

22. Any ward of unsound mind may be placed in an asylum for such person, upon the order of the probate judge of the county in which he resides, as follows:

DIV. 2, § 431.
In what cases
and how an
insane ward
may be placed
in asylum.

First.—The judge must be satisfied by the oath of two reputable physicians that such person is of unsound mind and unfit to be at large.

Second.—Before granting the order the judge must examine the person himself; or, if that is impracticable, cause him to be examined by an impartial person.

Third.—After the order is granted, the person alleged to be of unsound mind, his or her husband or wife, or relative to the third degree, may demand an investigation before a jury, which must be conducted in all respects as under an inquisi-

tion of lunacy. When an infant is a party, he must appear either by his general guardian, if he have one, or by a guardian appointed by the justice, as follows:

(1) If the infant be plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he be of the age of fourteen years; if under that age, upon the application of a relative or friend.

(2) If the infant be defendant, the guardian must be appointed at the time the summons is returned, or before the answer. It is the right of the infant to nominate his own guardian, if the infant be over fourteen years of age; otherwise the justice must make the appointment.

23. A person who is an idiot, or insane, is of unsound mind, and incapable of forming an intention to commit a crime.

Div. 4, § 3.
Idiots and insane persons.

24. Whenever it shall appear that a territorial convict, who is serving a term of imprisonment in the United States penitentiary at Deer Lodge, or other prisons where territorial convicts are confined, is insane, the warden, or other officer in charge of such penitentiary or prison, shall certify the fact to the probate judge of the county in which such penitentiary or prison is located. The said judge shall thereupon cause the said convict to be brought before him, at such time and place as he may direct, and the said judge shall, also, cause to appear, at the same time and place, a jury of three citizens of his county, one of whom shall be a licensed practicing physician, who shall proceed to examine the person said to be insane; and, if such jury, after careful examination, shall certify, upon oath, that the charge is correct, such judge shall make out duplicate warrants reciting such facts, and place them in the hands of the sheriff of said county, who shall immediately, in compliance therewith, convey the person therein named and deliver him to the contractor for the custody, maintenance and treatment of insane persons, at the place designated; and such contractor shall acknowledge, by endorsement in writing upon each of said warrants, the delivery of such persons therein described to him, and the date thereof; and such sheriff shall return one of said warrants to the officer issuing the same, and forward the other to the governor of the territory, who shall file and preserve the same.

Div. 5, § 241.
Trial of convict's sanity and removal to asylum.

25. If, at any time during the period for which such convict was sentenced, it shall appear to such contractor that he is restored to reason, and is of sound mind, he shall notify the sheriff of the county in which such penitentiary or prison is located, who shall thereupon convey and deliver him to the warden, or other officer in charge of such penitentiary or prison, and such convict shall be confined for the remainder of the term for which he was sentenced.

*Ibid § 242.
Restoration
of reason;
return to
prison.*

26. For the services required by this article, the probate judge and sheriff shall receive the fees that are provided by section 716 and 717 of chapter 30, relating to insane.

*Ibid § 243.
Officers' fees.*

27. If, after any criminal be sentenced to the punishment of death, the sheriff shall have cause to believe that such criminal has become insane, he may summon a jury of twelve competent jurors, with the concurrence of the judge of the court by which the judgment was rendered, to inquire into such insanity, giving notice thereof to the attorney prosecuting.

*Div. 3, § 379.
If after sen-
tence criminal
become insane
proceeding of
inquiry.*

28. The attorney prosecuting shall attend such inquiry, and may produce witnesses before the jury, and may cause subpoenas to be issued by the clerk for that purpose; and disobedience thereto may be punished by the district court in the same manner as in other cases.

*Ibid § 380.
Prosecuting
attorney shall
attend in-
quiry.*

29. The inquisition of the jury shall be signed by them and by the sheriff. If it be found that such criminal is insane, the sheriff shall suspend the execution of the sentence until he receive a warrant from the governor, or from the supreme or district court, as hereinafter authorized, directing the execution of the criminal.

*Ibid § 381.
If criminal
insane, execu-
tion sus-
pended.*

30. The sheriff shall immediately transmit such inquisition to the governor, who may, as soon as he shall be convinced of the sanity of such criminal, issue a warrant appointing a time and place for the execution, pursuant to his sentence, or he may, in his discretion, commute the punishment to imprisonment for life.

*Ibid § 382.
Inquisition
transmitted to
governor;
duty of gov'r.*

31. Judgment shall not be entered against any defendant while he is insane.

Ibid § 381.

32. If any defendant, upon whom the court is about to pass

Ibid § 392.
If defendant
declare he is
insane, duty
of court, and
proceedings
thereon.

judgment, declare that he is insane, the court, if he finds there is reasonable cause for believing the declaration, may order a jury to be impaneled to determine the fact; and witnesses may be introduced on the part of the defendant and the territory. If the jury find that the defendant is insane, the court shall order him to be placed in the custody of the person provided by law for the keeping of insane persons; if no such person be provided, then to the custody of some suitable person. Whenever it shall appear to the satisfaction of the court that such person has become sane, he shall order him to be produced for judgment.

33. No person shall be tried for any offense while he is insane.

Ibid § 463.

34. If any defendant, at the time he is arraigned, declares he is insane, or there is reasonable cause for believing he is insane, the court shall institute the same proceedings as is provided when a defendant declares he is insane, when called upon to show why judgment of court should not be pronounced against him.

Ibid § 464.
If defendant
declares he is
insane when
arraigned,
court to institute inquiry.

35. If the jury find that the defendant is sane, the trial shall proceed; but if insane, the defendant shall be delivered to the custody of the person provided by law for the keeping of the insane, or to the custody of some suitable person.

Ibid § 465.
If sane, trial
to proceed; if
insane, re-
tained in cus-
tody.

36. If the person to whose custody such insane person is confided, at any time think he has recovered his reason, he shall bring him into court, and deliver him to the proper officer; and if the court is satisfied that such defendant is sane, the trial shall proceed.

Ibid § 466.
If become
sane, returned
to court and
tried.

37. The keeping of an insane defendant, where there is no fund provided by the territory for the keeping of insane persons, shall be at the expense of the county where the offense was committed.

Ibid § 467.
Costs of keep-
ing insane de-
fendant, how
paid.

NEBRASKA.

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2. Officers, accounts of.
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11. Purchases and contracts to be advertised.
12. Board of supply; proposals.
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15. Location and title; government vested in trustees.
16. Trustees, powers and duties; inspection of asylum.
17. Steward and matron; resident officers.
18. Trustees to hold property in trust.
19. Records and reports of trustees.
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21. Superintendent and assistant physician, appointment, term of office.
22. Superintendent, qualification, powers and duties.
23. Official seal; reports of superintendent.
24. Assistant physicians, qualifications, salaries.
25. Steward, powers and duties.
26. Matron, powers and duties.
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28. Chaplain how appointed.
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31. Commissioners of insanity, appointment, qualifications, term of office.
32. Oath of office, organization.
33. Clerk of board, duties.
34. Commissioners to have cognizance of applications for admission; judicial powers.
35. Applications for admission, contents.
36. Examination, physician's certificate.
37. Commitment to asylum; warrant, superintendant's receipt; female attendants; warrant directed to relatives on request.
38. Settlement of patient, investigation of, notice to proper county.
39. Support, expenses borne by county of settlement.
40. Reimbursement by proper county.
41. Support, expenses borne by state when settlement is unascertained; removal of such patient in discretion of trustees.
42. Impartial treatment of all patients, special care on agreement.
43. Support, may be borne by relatives.
44. Temporary support by commissioners, pending admission; indigent and private patients, care of.
45. Support of insane out of hospital.
46. Commissioners to provide for patients suffering for want of care.
47. Restraint of alleged insane, to be only by authority of law.
48. Cruelty to insane, penalties.
49. Transfer of indigent patients to asylum.
50. Interrogatories on application for admission.
51. Preferences for admission.
52. Discharge of persons alleged to be sane, commission of lunacy.
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| <p>54. Habeas corpus allowed.</p> <p>55. Escape, proceedings.</p> <p>56. Discharged patients supplied with clothing and money.</p> <p>57. Discharge to relatives; not to apply to homicides.</p> <p>58. Selection of harmless incurables for discharge.</p> <p>59. Discharge, notice to commissioners.</p> <p>60. Support, charges fixed by trustees.</p> <p>61. Warrants for sums due by counties, how drawn and paid.</p> <p>62. Support, liability of estate of patient and of relatives.</p> <p>63. Discharge on authority of commissioners.</p> <p>64. Fees for examination and commitment.</p> <p>65. Neglect of duty by officers, penalties for.</p> | <p>66. Superintendent when shielded from prosecution.</p> <p>67. Definition of "insane" and "idiot;" idiots to be cared for by county.</p> <p>68. Blanks supplied to commissioners.</p> <p>69. Non-residents may be admitted as private patients.</p> <p>70. Correspondence of patients.</p> <p>71. Penalties for violation.</p> <p>72. Copies of act to be displayed in every ward of asylum.</p> <p style="text-align: center;">CRIMINAL INSANE.</p> <p>73. Non-accountability to law; suspension of judgment after conviction; stay of execution after sentence, investigation by jury.</p> <p>74. Insane convict sentenced to death, jury summoned.</p> <p>75. Inquest, stay of execution</p> <p>76. Finding transmitted to governor.</p> |
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1. The commissioner of public lands and buildings, the secretary of state, treasurer and attorney-general, shall form a board, which shall have general supervision and control of all the buildings, grounds and lands of the state, state prison, asylums and all other institutions thereof, except those for educational purposes; and shall perform such duties, and be subject to such rules and regulations, as may be prescribed by law.

2. An account shall be kept by the officers of the executive department, and of all the public institutions of the state, of all moneys received or disbursed by them severally from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath, and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

3. The officers of the executive department and of all the public institutions of the state, shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature, together with the reports of the judges of the supreme court, of defects in the constitution and laws, and the governor, or either house of the legislature, may, at any time, require information in writing, under oath from the officers of the executive department, and all officers and managers of state institutions, upon any subject relating to

the condition, management and expenses of their respective officers.

4. The board created by section 19 of article 5 of the constitution of the state of Nebraska, consisting of commissioners of public lands and buildings, the secretary of state, treasurer, and attorney-general of state, shall hereafter be known in law as the "Board of Public Lands and Buildings of the state of Nebraska," and shall have general supervision and control of all the public lands, lots, and grounds, and all institutions, buildings, and the grounds thereto, now owned or that may hereafter be acquired by the state, including * * * the state hospital for the insane and grounds.

G. S. 1881,
ch. 83, art. 7,
§ 1.
Officers.

5. The board shall have general custody and charge of all buildings and institutions and the grounds thereto coming under the provisions of this act, and shall be responsible for the proper keeping and repair of the same, and shall require from the commissioner of public lands and buildings who shall be direct custodian of such institutions, buildings and grounds, a report, at least once in every three months, as to the condition of the same; *provided*, that no additions shall be made to any public buildings without special appropriation of the legislature.

Ibid § 3.
Custody of
buildings.

6. The said board shall have power, under the restrictions of this act, to direct the general management of all the said institutions and be responsible for the proper disbursement of the funds appropriated for their maintenance, and shall have reviewing power over the acts of the officers of such institutions, and shall, on the part of the state, at regular meetings as hereinafter directed, audit all accounts of such officers including the accounts of the commissioner of public lands and buildings, except his salary.

Ibid § 4.
Disbursement
of funds.

7. At the regular meeting of the board it shall be their duty to examine the accounts of the public officers contemplated in this act and to determine whether the same are entitled to be paid out of the moneys appropriated for the purpose of maintaining the institutions for which they are charged, and if correct, shall approve the same, which approval shall be signed by the president and countersigned by the secretary under date of such action; and if the accounts

Ibid § 5.
Accounts of
officers.

be incorrect, exorbitant, or not entitled to payment from such appropriations, the same shall be disapproved and returned to the claimant, such board keeping a record of the same.

8. When the accounts above mentioned have been filed with the board, and shall have been audited and approved by them, the auditor of public accounts is hereby authorized and directed, upon the presentation to him of such accounts so authenticated, to issue his warrant on the treasurer against the proper fund or appropriation, for the amount therein stated, to the claimant or his assignee. And no accounts coming under the provisions of this act shall be entitled to payment until they have been so approved by the said board.

9. It shall be the duty of the board to take cognizance of all charges or complaints made against the said public officers, and at a regular meeting, to give an impartial hearing to such charges, and the defense against them, if any, and report the charges, evidence, and their conclusions in the matter, to the governor, within six days after the determination of such investigation.

10. The board shall require the several officers in charge of the institutions and buildings of the state, coming under the provisions hereof, to make out a correct schedule of all property in their charge belonging to the state, to be certified under oath, which shall be filed with the secretary of the board, and a copy thereof furnished to the commissioner of public lands and buildings, together with a list of buildings and grounds.

11. All purchases and contracts for supplies for any of the departments and public institutions of the state, where the public exigencies do not require the immediate delivery of the articles, shall be by advertising a sufficient time previously for proposals for supplying the same.

12. At least one month previous to the first day of January, April, July and October, respectively in each year, a board consisting of the governor, commissioner of public lands and buildings, secretary of state, treasurer and attorney-general, shall meet with the warden of the state prison, and the superintendent of each of the asylums or other institutions furnished by the state, and determine the supplies that

may be necessary for three months, except articles as may be perishable and cannot be kept. Said board shall designate clearly the quantity and quality of the articles, and shall then advertise for ten days in some newspaper published at the capital, having general circulation in the state, before the first day of January, April, July and October respectively, for proposals for furnishing said articles and for each institution separately, to be delivered at the institution within ten days after the first day of the months aforesaid; *provided*, that the board may permit the delivery of the goods monthly, if in their judgment it be deemed best. And the bids which propose to furnish the supplies for either institution at the lowest rate, shall be received for such institution; *provided further*, that no proposal shall be considered by said board unless the same is accompanied by a bond with such security as the board shall determine, with condition to furnish said articles as proposed in said bid.

13. All supplies for such institutions not purchased as provided in this act, shall be purchased in such manner as shall be directed by said board by written instruction.

Ibid § 3.
Other supplies.

14. The head of each of the executive departments respectively shall advertise for proposals for supplying the departments in accordance with the provisions of this act.

Ibid § 4.
Advertisement.

15. The hospital for the insane, located at Lincoln, in the county of Lancaster, shall be known under the name and by the title of the "Nebraska Hospital for the Insane," and shall be under the charge of three trustees, two of whom shall constitute a quorum for the transaction of business.

Ch. 40, § 1.
Location of hospital; title; control vested in trustees.

16. The trustees shall have the general control and management of the hospital; they shall have full power to make all by-laws necessary for the government of the same, not inconsistent with the constitution and laws of this state, and to conduct the affairs of the institution in accordance with the laws and by-laws regulating the same. It shall be the duty of the majority of said board to visit the hospital quarterly, and at said quarterly visits they shall, with the superintendent, examine the accounts of the steward, and

Ibid § 5.
Powers of trustees.

certify their approval or otherwise on the page of his monthly balance.

17. The board of trustees shall appoint, upon the nomination of the superintendent, a steward and matron, who, together with the superintendent and assistant physician, shall be styled the resident officers of the hospital, and shall reside in the same, and be governed and subject to all the laws and by-laws established for the government of the hospital.

*Ibid § 6.
May appoint
officers.*

18. The board of trustees may take and hold in trust, for the hospital, any lands conveyed or devised, and any money or other personal property given or bequeathed, to be applied for any purpose connected with the institution.

*Ibid § 7.
May hold
property in
trust.*

19. The board of trustees shall make a record of their proceedings at all meetings, in a book to be provided for that purpose, and at their annual meeting shall make a report to the governor, of the conditions and wants of the hospital, which shall be accompanied by a full and accurate report of the superintendent, and a detailed account of all moneys received and disbursed by the steward.

*Ibid § 8.
Shall make
record of pro-
ceedings.*

20. No trustee or any officer of the institution shall hereafter be directly or indirectly interested in the purchase of building material, or any article of furniture or supply, for the use of the hospital.

*Ibid § 9.
Shall not be
connected
with any con-
tract.*

21. The governor of the state shall appoint a superintendent, and may appoint two assistant physicians for the hospital of the insane, one of whom shall be a woman, who shall hold their offices for a term of six years, unless sooner removed as hereinafter provided.

*Ibid § 10,
as amended
1883, ch. 48, § 1.
Supt. ; by
whom ap-
pointed.*

22. The superintendent of said institution shall be a physician of acknowledged skill and ability in his profession, and be a graduate of a regular medical college. He shall be the chief executive officer of the hospital, and shall hold his office for the term of six years, unless sooner removed by the governor for malfeasance in office, or other good and sufficient cause. He or the assistant physician must be in daily attendance at the hospital, and in no instance must both be absent at the same time. Before entering upon the duties

*Ibid § 11.
Duties and
powers of.*

of his office, he shall take and subscribe an oath or affirmation for the faithful and diligent discharge of the duties required by law. He shall have the entire control of the medical, moral, and dietetic treatment of the patients, and shall see that the several officers of the institution faithfully and diligently discharge their respective duties. He shall employ attendants, nurses, servants and such other persons as he may deem necessary for the efficient and economical administration of the government of the hospital.

23. The superintendent shall provide an official seal for the hospital, upon which shall be the words, "Nebraska Hospital for the Insane." He shall make reports to the board of trustees as provided for in section eight (8) of this act.

*Ibid § 12.
Must provide
an official
seal.*

24. The assistant physicians shall be graduates of a medical school, and be able to perform the ordinary duties of the superintendent, and the physician who is oldest in office shall be known as the first assistant, and shall, during the necessary absence of the superintendent, perform the duties of said superintendent. The salary of the first assistant shall be \$1,500, and of the second assistant \$1,200 per annum.

*Ibid § 13,
as amended
1883, ch. 48,
§ 1.
Assistant
physicians,
duties and
salaries.*

25. The steward, under the direction of the superintendent, and not otherwise, shall make all purchases for the hospital where they can be made on the best terms, keep the accounts, make engagements with, pay and discharge those employed in and about the hospital, and have a personal superintendence of the farm, garden, and grounds, and perform such other duties as may be assigned him.

*Ibid § 14.
Steward, du-
ties of.*

26. The matron, under the direction of the superintendent, and not otherwise, shall have the general supervision of the domestic arrangements of the hospital, and do what she can to promote the comfort and restoration of the patients.

*Ibid § 16.
Matron, du-
ties of.*

27. The superintendent shall affix the seal of the hospital to any notice, order of discharge, report or other paper required to be given by him, or issued.

*Ibid § 53.
Shall affix
seal, when.*

28. The board of trustees may, if they deem desirable, and upon nomination of the superintendent, appoint a chaplain and prescribe his duties.

*Ibid § 56.
Chaplain.*

29. The salary of the superintendent shall be twenty-five hundred dollars per annum. * * * *

30. The following named officers shall give bonds with penalties of the following amounts: * * * superintendent of the insane hospital \$10,000. The assistant superintendent, \$5,000. The steward, \$5,000. * * *

31. In each organized county of the state, there shall be a board of commissioners, consisting of three (3) persons, to be styled, commissioners of insanity, two (2) of whom shall constitute a quorum; the clerk of the district court shall be ex-officio member of such board, and clerk of the same; the other members shall be appointed by the judge of said court; one of them shall be a respectable practicing physician, and the other a respectable practicing lawyer, and the appointments shall be made of persons residing as convenient as may be to the county seat, such appointments may be made during the session of the court, or in vacation; and, if made in vacation, it shall be by written order, signed by the judge and recorded by the clerk of the court. Immediately on the taking effect of this act, the judge shall make the first appointment; he shall then appoint one for one year, and the other for two years; as their respective terms expire, their successors shall be appointed for two (2) years; the appointment of successors may be made at any time within three (3) months prior to the expiration of the term of the incumbent, who shall hold his office until his successor is appointed and qualified. In the temporary absence, or inability to act, of two (2) of the commissioners, the judge of the district court, if present, may act in the room of one of such commissioners; or the commissioner present may call to his aid a respectable practicing physician or lawyer, who, after qualifying as in other cases, may act in the same capacity. The record in such case must show the fact of such absence.

32. Before entering upon the duties of their office, the person so appointed shall take and subscribe an oath or affirmation to support the constitution of the United States, and of the state of Nebraska, and to faithfully discharge their duties according to law as such commissioners; which obligation shall be filed with the clerk of said court, who shall enter a memorandum thereof on the records; they shall or-

Ibid § 58.
Ch. 10, § 19.
Bonds by
officers.

Ch. 40, § 17.
Commissioners
of insanity,
who are;
quorum.

Ibid § 18.
Oath. Meet-
ing.

ganize by choosing one of their number president; they shall hold their meetings for business at the office of the clerk of said court, unless, for good reasons, they shall fix on some other place; if they deem necessary or advisable they may hold sessions at such regular times as they may fix; they shall also meet on notice from the clerk.

33. The term "clerk" as herein used, means clerk of said board of commissioners, unless otherwise expressed; Ibid § 19. Clerk, duties of. the said clerk shall sign and give, or issue, all notices, appointments, warrants, subpoena, or other process required to be given or issued by the commissioners, affixing thereto his seal as clerk of said court; he shall file and carefully preserve in his office all papers connected with any inquest by the commissioners, and properly belonging to his office, with all notices, reports, and other communications; he shall keep separate books in which to minute the proceedings of the board, and his entries therein shall be sufficiently full to show, with the papers filed, a complete record of their findings, orders and transactions; the notices, reports, and communications herein required to be given or made, may be sent by mail, unless otherwise expressed or implied; and the fact and date of such sending, and of their reception, must be noted on the proper record.

34. The said commissioners shall have cognizance of all applications for admission to the hospital, or for the Ibid § 20. Powers of. safe keeping otherwise of insane persons within their respective counties, excepting in cases otherwise specially provided for. For the purpose of discharging the duties required of them, they shall have power to issue subpoena, and compel obedience thereto, to administer oaths, and do any act of a court necessary and proper in the premises.

35. Application for admission to the hospital must be made in writing in the nature of an information, verified by Ibid § 21. Application for admission. affidavit; such information must allege that the person in whose behalf the application is made, is believed by the informant to be insane and a fit subject for custody and treatment in the hospital; that such person is found in the county and has a legal settlement therein, if such is known to be the fact; and if such settlement is not in the county, where it is,

if known; or where it is believed to be, if the informant is advised on the subject.

36. On the filing of an information as above provided, the commissioners shall at once take steps to investigate the grounds of the information; for this purpose, they may require that the person for whom such admission is sought, be brought before them and that the examination be had in his or her presence; and they may issue their warrant therefor, and provided for the suitable custody of such person until their investigation shall be concluded; such warrant may be executed by the sheriff or any constable in the county, or if they shall be of opinion from such preliminary inquiry as they may make, and in making which they shall take the testimony of the informant if they deem necessary or desirable, and of other witnesses if offered, that such course would probably be injurious to such person or attended with no advantage they may dispense with such presence. In their examination they shall hear testimony for and against such application, if any is offered; any citizen of the county, or any relative of the person alleged to be insane may appear and resist the application, and the parties may appear by counsel if they elect. The commissioners, whether they decide to dispense with the presence before them of such person or not, shall appoint some regular practicing physician of the county, to visit or see such person, and make a personal examination touching the truth of the allegation in the information, and touching the actual condition of such person and forthwith report to them thereon; such physician may or may not be of their own number, and the physician so appointed and acting shall certify under his own hand, that he has in pursuance of his appointment made a careful personal examination as required; and that on such examination, he find the person in question insane, if such is the fact; and if otherwise, not insane; and in connection with his examination, the said physician shall endeavor to obtain from the relatives of the person in question, or from others who know the facts, correct answers so far as may be to the interrogatories hereinafter required to be propounded in such cases, which interrogations and answers shall be attached to his certificate.

37. On the return of the physician's certificate the commis-

Ibid § 22.
Investigation
by commis-
sioners.

sioners shall as soon as practicable, conclude their investigations; and having done so, they shall find whether the person alleged to be insane, is insane; whether, if insane, a fit subject for treatment and custody in the hospital; whether the legal settlement of such person is in their county, and if not in their county, where it is if ascertained; if they find such person is not insane, they shall order his or her discharge, if in custody; if they find such person insane, and a fit subject for custody and treatment in the hospital, they shall forthwith issue their warrant and a duplicate thereof, stating such finding with the settlement of the person, if found; and if not found, their information, if any, in regard thereto; authorizing the superintendent of the hospital to receive and keep such person as a patient therein; said warrant and duplicate with the finding and certificate of the physician, shall be delivered to the sheriff of the county who shall execute the same, by conveying such person to the hospital and delivering him or her, with such duplicate, and physician's certificate and finding, to the superintendent thereof; the superintendent over his official signature, shall acknowledge such delivery on the original warrant, which the sheriff shall return to the clerk of the commissioners, with his cost and expense endorsed thereon; if neither the sheriff or his deputy is at hand or both are otherwise engaged, the commissioners may appoint some other suitable person to execute the warrant in his stead, who shall take and subscribe an oath or affirmation faithfully to discharge his duty, and shall be entitled to the same fees as the sheriff; the sheriff or any other person so appointed, may take to his aid such assistance as he may need to execute such warrant; but no female person shall thus be taken to the hospital without the attendance of some other female, or some relative of such person. The superintendent in his acknowledgment of delivery, must state whether there was any such person in attendance, and give the name or names, if any. It is however hereby provided, that if any relative or immediate friend of the patient, who is a suitable person, shall so request, he shall have the privilege of taking and executing such warrant, in preference to the sheriff or any other person, and without taking such oath or affirmation;

Ibid § 23.
Further proceedings by commissioners.

Friend or relative of patient has power to take and execute a warrant.

and for so doing he shall be entitled to his necessary expenses but to no fees. The requirements of this and preceding section, are modified by the provisions of the next section.

38. If the commissioners find that the person so committed to the hospital has, or probably has, a legal settlement in some other county in the state, they shall immediately notify the commissioners of such county of such finding and commitment; and the commissioners so notified shall thereupon inquire and ascertain, if possible, whether the person in question has a legal settlement in their county, and shall immediately notify the superintendent of the hospital and the commissioners of the county from which such person was committed, of the result of such inquiry. If the legal settlement of a person so committed cannot for a time be ascertained, and is afterwards found, the notices so required shall then be given.

*Ibid § 24.
Patients,
when legal
settlement in
some other
county.*

39. When the superintendent of the hospital has been duly notified as herein required, that a patient sent to the hospital from one county, has a legal settlement in another county of the state, he shall thereafter hold and treat such patient as from the latter county; and such holding shall apply to expenses already incurred in behalf of such patient and remaining unadjusted.

*Ibid § 25.
When belong-
ing to another
county, duty
of superin-
tendent.*

40. Expenses incurred as herein provided by one county, on account of an insane person whose legal settlement is in another county of the state, shall be refunded with lawful interest thereon, by the county of such settlement; and shall be presented to the county commissioners of the county sought to be charged, which shall be allowed and paid the same as other claims.

*Ibid § 26.
Expenses in-
curred by
such county
to be re-
funded.*

41. Patients in the hospital having no legal settlement in the state, or whose legal settlement cannot be ascertained, shall be supported at the expense of the state; this provision shall apply to all such patients now in the hospital, touching expenses already incurred and remaining unpaid, if any such there be, and the trustees may authorize the superintendent to remove any such patient at the expense of the state, if they see proper.

*Ibid § 27.
When legal
settlement in
the state.*

42. All patients in the hospital shall be regarded as standing on an equal footing; and the several patients, according to their different conditions of mind and

*Ibid § 28.
To be on
equal footing.*

body, and their respective needs, shall be provided for, and treated with equal care; *provided*, that, if the relatives or immediate friends of any patient shall desire it, and shall pay the expenses thereof, such patient may have special care, and may be provided with a special attendant, as may be agreed upon with the superintendent; in such cases the charges for such special care and attendance shall be paid quarterly in advance.

43. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patient therein and the superintendent shall cause the account of the patient to be credited with any sums so paid.

Ibid § 29.
Relatives
may pay ex-
penses.

44. If in the case of any persons found to be insane, and fit subjects for custody and treatment in the hospital, as above provided, it shall be shown, to the satisfaction of the commissioners, that they cannot at once be admitted therein for want of room, or for any other cause, and that they cannot with safety be allowed to go at liberty, the commissioners shall require that such patient shall be suitably provided for otherwise, until such admission can be had, or until the occasion therefor no longer exists; such patients may be cared for either as public or as private patients; those shall be treated as private patients whose relations or friends will obligate themselves to take care of and provide for them, without public charge. In case of any one treated as a private patient, the commissioners shall appoint some suitable person a special custodian, who shall have authority, and whose duty it shall be, in all suitable ways, to restrain, protect, and care for such patient, in such manner as to best secure his or her safety and comfort, and in such manner as to best protect the persons and property of others. In the case of public patients, the commissioners shall require that they be in like manner restrained, protected, and cared for by the commissioners of the county or overseers of the poor, at the expense of the county, and they may accordingly issue their warrants to such commissioners of the county or overseers of the poor, who shall forthwith comply with the same. If there is no poor house for the reception of such patients, or if no more suitable place can be found, they may be confined in the jail of the county in charge of the sheriff.

Ibid § 30.
How cared
for when hos-
pital full.

45. On application to the commissioners on behalf of persons alleged to be insane, and whose admission to the hospital is not sought, made substantially in the manner above prescribed, and asking that provision be made for their care as insane, either public or private, within the county, and on proof of their insanity and need of care as above pointed out, the commissioners may provide for their care, protection, and restraint, as in the case of other applications.

*Ibid § 31.
Care of when
not admitted.*

46. On information laid before the commissioners of any county that a certain insane person in the county is suffering for want of proper care, they shall forthwith inquire into the matter, and if they find the information well founded, they shall make all needful provisions for the care of such person as provided in other cases.

*Ibid § 32.
Commis-
sioners to
care for,
when.*

47. No person supposed to be insane shall be restrained of his or her liberty by any other person, otherwise than in pursuance of authority obtained as herein required, excepting to such extent, and for such brief period as may be necessary for the safety of persons and property, until such authority can be obtained.

*Ibid § 33.
Persons
supposed to
be insane,
restrained,
when.*

48. Any person having care of an insane person, and restraining such person either with or without authority, who shall treat such person with wanton severity, harshness, or cruelty, or shall in any way abuse such person shall be guilty of a misdemeanor, besides being liable in an action for damages.

*Ibid § 34.
Cruelty to
insane.*

49. Insane persons who have been under care, either as public or private patients, outside of the hospital, by authority of the commissioners of any county, may on application to that effect be transferred to the hospital, whenever they can be admitted thereto, on the warrant of such commissioners; such admission may be had without another inquest, at any time within six months after the inquest already had, unless the commissioners shall deem further inquest advisable.

*Ibid § 35.
Transfer of
county insane
to hospital.*

50. In each case of application for admission to the hospital, correct answers to the following interrogatories, so far as they can be obtained, shall accompany the physician's certificate; and if, on further examina-

*Ibid § 36.
Interrogatories
to be given on
application
for admission.*

tion, after the answers are stated, any of them are found to be erroneous, the commissioners shall cause them to be corrected.

(1) What is the patient's name? Married or single? If any children how many? Age of youngest child? Age of patient?

(2) Where was the patient born?

(3) Where is his (or her) place of residence?

(4) What has been the patient's occupation?

(5) Is this the first attack? If not, when did others occur, and what was their duration?

(6) When were the first symptoms of this attack manifested, and in what way?

(7) Does the disease appear to be increasing, decreasing or stationary?

(8) Is the disease variable, and are there rational intervals? If so, do they occur at regular periods?

(9) On what subjects or in what way is derangement now manifested? State fully.

(10) Has the patient shown any disposition to injure others?

(11) Has suicide ever been attempted? If so, in what way? Is the propensity now active?

(12) Is there a disposition to filthy habits, destruction of clothing, breaking glass, etc.?

(13) What relatives, including grandparents and cousins, have been insane?

(14) Did the patient manifest any peculiarities of temper, habits, disposition, or pursuits, before the accession of the disease? Any predominant passion, religious impressions, etc.?

(15) Has the patient been subject to any bodily disease,—epilepsy, suppressed eruptions, discharge of sores, or ever had any injury of the head?

(16) Was the patient ever addicted to intemperance in any form?

(17) Has restraint or confinement been employed? If so, what kind, and how long?

(18) What is supposed to be the cause of the disease?

(19) What treatment has been pursued for the relief of the patient? Mention particulars, and the effect.

(20) State any other matter supposed to have a bearing on the case.

51. If at any time it may become necessary, for want of

Ibid § 37.
Discriminat'n,
when lack of
room. room, or other cause, to discriminate in the general reception of patients into the hospital, a selection shall be made, as follows:

- (1) Recent cases, *i. e.*, cases of less than one year's duration
- (2) Chronic cases, *i. e.*, when the disease is of more than one year's duration, presenting the most favorable prospects of recovery, shall be next preferred.
- (3) Those for whom applications have been longer on file, other things being equal, shall be next preferred; and
- (4) When cases are equally meritorious, in all other respects, the indigent shall have the preference.

Ibid § 38.
Proceeding
upon allega-
tion that pa-
tient is not
insane. 52. On a statement in writing verified by affidavit, addressed to a judge of the district court of the county in which the hospital is situated, or of the county in which any certain person confined in the hospital has his or her settlement, alleging that such person is not insane, and is unjustly deprived of his or her liberty, such judge shall appoint a commission of not more than three persons, in his discretion to inquire into the merits of the case; one of which shall be a physician, and if two or more appointed, one shall be a lawyer. Without first summoning the party to meet them they shall proceed to the hospital and have a personal interview with such person, so managed as to prevent him or her if possible, from suspecting its object, and they shall make any inquiries and examinations they may deem necessary and proper of the officers, and records of the hospital touching the merits of the case; if they shall judge it prudent and advisable they may disclose to the party, the object of their visit and either in the presence of such party, or otherwise, make further investigation of the matter; they shall forthwith report, to the judge making the appointment, the results of their examination and inquiries; such report shall be accompanied by a statement of the case and signed by the superintendent; if on such report and statement, and the hearing of the testimony, if any is offered, the judge shall find the person not insane, he shall order his or her discharge; if on the contrary, he shall so state, and authorize his or her continued detention. The finding and order of the judge with the report and other papers shall be filed in the office of the clerk of the court over which such judge presides, who shall enter a

memorandum thereof on his record, and forthwith notify the superintendent of the hospital of the finding and order of the judge, and the superintendent shall carry out the order. The commissioners appointed as provided in this section, shall be entitled to their necessary expenses and a reasonable compensation, to be allowed by the judge, and paid by the state out of any funds not otherwise appropriated; *provided*, that the applicant shall pay the same, if the judge shall find that the application was made without probable grounds and shall so order.

53. The commission so provided for shall not be repeated oftener than once in six months in regard to the same party; nor shall such commission be appointed in the case of any patient within six months of the time of his or her admission.

Ibid § 39.
Application,
how often
made.

54. All persons confined as insane shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity shall be decided at the hearing; and, if the judge shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason.

Ibid § 40.
Habeas
corpus.

55. If any patient shall escape from the hospital the superintendent shall cause immediate search to be made for such patient; and if the patient cannot soon be found, he shall cause notice of such escape to be forthwith given to the commissioners of insanity of the county where the patient belongs, and if such patient is found in their county, the commissioners shall cause him or her to be returned, and shall issue their warrant therefor, as in other cases, unless the patient shall be discharged, or unless, for good reasons, they shall provide for his or her care otherwise, of which they shall notify the superintendent.

Ibid § 41.
Escape of pa-
tients.

56. Any patient who is cured, shall be immediately discharged by the superintendent. Upon such discharge the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing, and a sum of money not exceeding twenty (20) dollars, which shall be charged with the other expenses in the hospital, of such patient. The relatives of any patient not susceptible of cure by medical

Ibid § 42.
Discharge of
patients.

treatment in the hospital, and not dangerous to be at large, shall have the right to take charge of and move such patient on the consent of the board of trustees; *provided*, that in the interim of the meetings of the board, the consent of two of the trustees shall be sufficient.

57. On the application of the relations or immediate friends of any patient in the hospital who is not cured, and who cannot be safely allowed to go at liberty, the commissioners of insanity of the county where such patient belongs, on making provision for the care of such patient within the county, as in other cases may authorize his or her discharge therefrom; *provided*, no patient who may be under charge or conviction of homicide shall be discharged without the order of the board of trustees.

58. The board of trustees shall order the discharge or removal from the hospital of incurable and harmless patients whenever it is necessary to make room for recent cases; *provided*, that in the interim between the meetings of the board, the superintendent, in conjunction with two trustees, shall possess and exercise the power granted in this section.

59. When patients are discharged from the hospital by the authorities thereof, without application therefor, notice of the order of discharge shall at once be sent to the commissioners of insanity of the county where they belong, and the commissioners shall forthwith cause them to be removed, and shall at once provide for their care in the county as in other cases, unless such patients are discharged as cured.

60. The board of trustees shall from time to time, fix the sum to be paid per week for the board and care of patients, and to arrive at such sum shall estimate the total outlay as far as possible from the sums actually paid per annum; and the weekly sum so fixed shall be the sum said hospital shall be entitled to demand for the keeping of any patient, and the certificate of the superintendent attested by the seal of the hospital, shall be evidence in all places, of the amount due as fixed.

61. The superintendent shall certify to the auditor of state on the first days of March, June, September, and December, the amount (not previously certified by him), due to said hospital, from the several counties

Ibid § 43.
Discharge on
application of
relatives.

Ibid § 44.
Discharge of,
when harm-
less.

Ibid § 45.
Notice of dis-
charge.

Ibid § 46.
Board of pa-
tients.

Ibid § 47.
Shall certify
to auditor
amount due
from counties.

having patients chargeable thereto, and said auditor shall pass ~~the same~~ to the credit of the hospital. The auditor shall thereupon notify the county clerk of ~~each county~~ so owing, of the amount thereof, and charge the same to said county; and the board of county commissioners shall add such amount to the next state tax to be levied in said county, and pay the amount so levied into the state treasury.

62. The provisions herein made for the support of the insane at public charge, shall not be construed to release the estates of such persons nor their relatives from liability for their support, and the commissioners of the several counties are authorized and empowered to collect from the property of such patients, or from any person or persons legally bound for their support, any sums paid by the county in their behalf, as herein provided; and the certificate from the superintendent and the notice from the auditor of state, stating the sums charged in such cases, shall be presumptive evidence of the correctness of the sum so stated. If the board of county commissioners, in the case of any insane patient who has been supported at the expense of the county, shall deem it a hardship to compel the relatives of such patient to bear the burden of his or her support, they may relieve such relatives from any part or all of such burden as may seem to them reasonable and just.

*Ibid § 48.
Estate and
relatives not
released from
liability to
pay expense.*

63. Whenever it shall be shown to the satisfaction of the commissioners of insanity of any county, that cause no longer exists for the care, within the county, of any particular person as an insane patient in their county, as herein provided, they shall order the immediate discharge of such person.

*Ibid § 49.
To discharge
insane, when.*

64. The commissioners of insanity shall be allowed at the rate of three (3) dollars per diem each, for all the time actually employed in the duties of their office; they shall also be allowed their necessary and actual expenses, not including charges for board. The clerk, in addition to what he is entitled to as commissioner of insanity, shall be allowed one-half as much more for making the required record entries in all cases of inquest, and of meetings of the board for any purpose, and for the filing of any papers required to be filed; he shall also be allowed twenty-five (25)

*Ibid § 50.
Pay of; other
officers.*

cents for each notice or process given or issued under seal as herein required. The examining physician shall be entitled to five dollars for each case examined, and mileage at the rate of ten cents per mile each way. The sheriff shall be allowed for his personal service in conveying a patient to the hospital and returning therefrom, at the rate of three dollars per day for the time necessarily and actually employed, and mileage the same as is allowed in other cases, and for other service the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses in the district court. The compensation and expenses provided for above shall be allowed and paid out of the county treasury in the usual manner. Whenever the commissioners of insanity issue their warrant for the admission of a person to the hospital, and funds to pay the expenses thereof are needed in advance, they shall estimate the probable expense of conveying such person to the hospital, including the necessary assistance, and not including the compensation allowed the sheriff; and on such estimate, certified by the clerk of commissioners of insanity, the county clerk shall issue his order on the treasurer of the county in favor of the sheriff or other person entrusted with the execution of such warrant; the sheriff or other person executing such warrant shall accompany his return with a statement of the expenses incurred; and the excess or deficiency may be deducted from or added to his compensation as the case may be; if funds are not so advanced, such expenses shall be certified and paid in the manner above prescribed, on the return of the warrant. When the commissioners of insanity order the return of a patient, compensation and expenses shall be in like manner allowed.

65. Any officer required as herein to perform any act, as herein provided, and any person accepting an appointment under the provisions of this act, and wilfully refusing or neglecting to perform his duty as herein prescribed, shall be guilty of a misdemeanor, besides being liable to an action for damages.

Ibid § 51.
Penalty for
neglect of
duty.

66. The warrant of the commissioners of insanity, authorizing the admission of any person to the hospital as a patient, accompanied by a physician's certificate as herein provided, shall operate to shield the superintendent and

Ibid § 52.
Warrant of.

other officers of the hospital against all liability to prosecution of any kind, on account of the reception and detention of such persons in the hospital; *provided*, such detention shall be otherwise, in accordance with the laws and by-laws regulating its management.

67. The term "insane" as used in this act includes every species of insanity or mental derangement. The term "idiot" is restricted to persons supposed to be <sup>Ibid § 54.
Definition of
"insane."</sup> naturally without mind; no idiot shall hereafter be admitted into the hospital for the insane; and all such idiots now in said hospital shall be discharged at the expiration of thirty days from the passage of this act, and it is hereby made the duty of the board of trustees to notify the commissioners of insanity of the county from which such idiots were sent, to remove said idiots from the hospital; and in case of neglect or refusal to comply with these provisions within thirty (30) days from the date of said notification, the superintendent shall cause said idiots to be returned to said counties at the expense of said county—which sum shall be collected in the same manner as provided for patients in section forty-seven of this act. When such idiots are removed they shall be provided for in the same manner as other poor.

68. The trustees of the hospital shall provide for furnishing the commissioners of insanity, of the counties entitled to send patients to the hospital, with such <sup>Ibid § 55.
Blanks.</sup> blanks for warrants, certificates, etc., as will enable them with regularity and facility to comply with the provisions of the law, and also with copies of the by-laws of the hospital when printed.

69. Insane persons may be admitted from other states and territories upon equal footing and on same conditions as private pay patients. The sum to be paid <sup>Ibid § 57.
Insane from
other states.</sup> monthly for the care, maintenance and treatment of such patients to be fixed from time to time by the board of trustees, and to be collected quarterly in advance by the steward of the hospital and accounted for as other funds in his hands belonging to the state of Nebraska.

70. Henceforth there shall be no censorship exercised over the correspondence of inmates of the hospital for <sup>Act of 1883,
ch. 49, § 1.
Correspondence of in-</sup> the insane in this state, but their postoffice rights

mates of in-
sane hos-
pitals. shall be as free and unrestrained as are those of any resident or citizen of this state, and be under the protection of the same postal laws. And every inmate shall be allowed to write when and whenever he or she desires to any person he or she may choose. And it is hereby made the duty of the superintendent to furnish each and every inmate of each and every insane asylum in this state with suitable material, at the expense of the state, for writing, inclosing, sealing, stamping, and mailing letters, sufficient for writing at least one letter a week, provided they request the same, unless they are otherwise furnished with such material; and all such letters shall be dropped by the writers thereof, accompanied by an attendant when necessary, into a post office box, provided by the state at the hospital for the insane, and kept in some place easy of access to all the patients; and the contents of such post office box or boxes shall be collected once every week by the authorized person and by him placed into the hands of the United States mail for delivery. And it is hereby made the duty of the superintendent of every hospital for the insane in the state, either public or private, to deliver or cause to be delivered to said person any letter or writing to him or her directed, without opening or reading the same, or allowing it to be opened or read, without consent of the recipient of such letter, or the request or consent of the writer.

Ibid § 2.
Penalty for
violation. 71. Any person refusing or neglecting to comply with, or wilfully and knowingly violating any of the provisions of this act, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for a term not exceeding three years nor less than six months, or by a fine not exceeding \$500, or both, at the discretion of the court, and by ineligibility to any office in the asylum afterwards.

Ibid § 3.
Copy to be posted
in each ward, etc. 72. A printed copy of this act shall be framed and kept posted in every ward of every hospital for the insane, both public and private, in the state of Nebraska.

Part 3, § 454.
Accused in-
sane not to be
tried. 73. A person that becomes lunatic or insane after the commission of a crime or misdemeanor, ought not to be tried for the offense during the continuance of the lunacy or insanity. If, after verdict of guilty, and before judgment pronounced, such person become lunatic

or insane, then no judgment shall be given while such lunacy or insanity shall continue. And if, after judgment and before execution of the sentence, such If after verdict of guilty. person shall become lunatic or insane, then in case the punishment be capital, the execution thereof shall be stayed until the recovery of said person from the insanity or lunacy. In all such cases it shall be the duty of the court to impanel a jury to try the question, whether the accused be, at the time of impaneling, insane or lunatic.

74. If any convict sentenced to the punishment of death shall appear to be insane, the sheriff shall forthwith give notice thereof to a judge of the district court Ibid § 503. Insane convict, trial of insanity. of the judicial district, and shall summon a jury of twelve impartial men to inquire into such insanity, at a time and place to be fixed by the judge, and shall give immediate notice thereof to the district attorney.

75. The judge, clerk of court, and district attorney shall attend the inquiry. Witnesses may be produced Ibid § 554. Inquest in such cases. and examined before the jury. The finding shall be in writing, signed by the jury. If it be found that the convict is insane, the judge shall suspend the execution of the convict until the sheriff shall receive a warrant from the governor of the state, directing such execution. The finding of the jury and order of the judge, certified by the judge, shall be by the clerk entered on the journal of the court.

76. The sheriff shall transmit immediately a certified copy of such finding to the governor, who may, as soon Ibid § 555. Finding transmitted to governor. as he shall be convinced that the convict has become of sound mind, issue a warrant appointing a time for his execution.

NEVADA.

ERECTION OF NEVADA ASYLUM.

1. Selection of site for asylum.
2. Appropriation for grounds.
3. Board of commissioners for erection of asylum, specifications.
4. Oath of office.
5. Organization of board, superintendent of construction.
6. Advertisements for plans.
7. Proposals for building.
8. Bond of contractor.
9. Monthly estimates of expenses.
10. Certification of expenditures.
11. Commissioners not to be interested in contracts.
12. Appropriation for building.
13. Source of appropriation.
14. State tax to be levied.
15. Board of commissioners, powers and duties; inspection; temporary provision for the insane.
16. Superintendent, qualifications, accounts, powers and duties.

CARE OF INSANE.

17. Board of commissioners for care of indigent insane.

18. Quorum; powers to purchase land for asylum.
19. Expenses of board of commissioners, how borne.
20. Application for commitment, physician's examination, commitment to California asylum.
21. Appropriation for expenses.
22. Reports of commissioners.
23. Board of commissioners to contract for support, terms of contract.
24. Transfer of patients from California asylum on completion of Nevada asylum; proceedings for commitment, physician's certificate.
25. Private patients, charges fixed by board; impartial treatment of all patients.
26. Support, expenses of, how borne.
27. Warrants for expenses, how drawn and paid.

CRIMINAL INSANE.

28. Insane convict, transfer to asylum.
29. On recovery, remanded to custody; escape from asylum to be treated as escape from prison.

1. The state grounds at Reno are hereby selected as the site for an insane asylum, and such insane asylum is hereby located on said grounds.

Act of 1879,
ch. 130, § 1.
Asylum at Reno
established.

2. The sum of \$5,000 is hereby appropriated out of any money in the state treasury not otherwise appropriated for the purpose of supplying such grounds with water, and improving the site of such location by purchasing and planting trees, and fencing the same, and for the purpose of obtaining plans and specifications for an asylum, to be submitted to the legislature two years hence. Said sum to be expended under the direction of the board of commissioners for the care of the insane; *provided*, that the commissioners are hereby first instructed to obtain a perfect title to three hun-

Ibid § 2.

Appropriation.

dred 300 inches of water, before commencing to improve the land.

3. A board, consisting of the present board of commissioners for the insane, and the lieutenant governor, is hereby created for the purpose of causing to be enacted, on the state land, near the town of Reno, Washoe county, a suitable building or buildings for the care of the indigent insane of the state of Nevada. The said asylum shall have sufficient capacity for the care of one hundred and sixty patients; *provided*, that said asylum shall be completed within fifteen months after the passage of this act; *and provided*, that said building or buildings shall be built of stone or brick, and shall be fire-proof so far as consistent with cost, and in the judgment of the board.

Act of 1881,
ch. 42, § 1.
Board of in-
sane commis-
sioners creat-
ed; powers
and duties.

Capacity of
asylum.

4. Before entering upon their duties, as prescribed in this act, the said commissioners shall take and subscribe the constitutional oath of office, and cause the same to be filed with the secretary of state.

Ibid § 2.
Commission-
ers to take
oath of office.

5. Immediately after qualifying, the members shall meet at the seat of government, and organize said board by electing from their number a president, vice-president, and secretary, whose duties shall be defined by the by-laws of said board. They shall also appoint some competent builder to superintend construction of the work herein provided for at a per diem not to exceed six dollars.

Ibid § 3.
Their organi-
zation.

Builder to
superintend
construction.

6. After the approval of this act they shall organize and act immediately. They shall advertise in two newspapers in this state, and one in California, for the presentation of plans and specifications for the erection of a building or buildings with a capacity of accommodating one hundred and sixty inmates, said building or buildings to be so constructed that additions can be made when found necessary. After the adoption of plans by the board, under no consideration whatever shall any changes be made in said plans or specifications, unless by the unanimous consent of the board of commissioners, and the consent of the contractor, and without additional expense to the state.

Ibid § 4.
Advertise for
plans, etc.

Capacity.

7. As soon as practicable, after adopting plans, the board

Ibid § 5.
Proposals for
building. shall advertise for sealed proposals for furnishing the material and doing all the work for the erection of said building or buildings. Said board may adopt or reject any and all bids not deemed reasonable or satisfactory; but, in determining bids for the same work or material, the lowest responsible bid shall be taken.

8. The contractor for the erection of said building or buildings shall be required to furnish a good and sufficient bond for the payment of all debts and liabilities incurred in the erection of said building or buildings, and no allowance or increase of pay shall be given over and above the contract price; and said contractors shall bind themselves to complete the work ready for the occupation of the patients within six months from the date of the signing of the contract, or pay a forfeit to the state at the rate of two hundred and fifty dollars per day for each day beyond the time herein allowed.

Ibid § 6.
Contractor to
file bond. 9. Said board shall cause monthly estimates to be made during the progress of the building and allow thereon seventy-five per cent. of the value of such work and material actually done and delivered, and no more; twenty-five per cent. being reserved as security for the completion of the contract, which amount shall be paid in full when said contract is completed and the work accepted by the board.

Ibid § 7.
Payments to
contractor. 10. After the expiration of each month, after the signing of the contract, said board shall procure the estimates as provided for in section seven of this act, and shall certify to the amounts thereof to the state board of examiners; and, upon the allowance thereof by said board, properly certified to the state controller, he shall draw his warrant on the state treasurer in favor of the proper person for seventy-five per cent. of the amount thus certified to, and the state treasurer shall pay the same out of any fund appropriated for such purpose.

Ibid § 8.
Idem. 11. No fees or compensation of any kind shall be allowed to any member of the board of commissioners by this act created, except as hereinafter provided, nor shall any member be interested directly or indirectly, in any contract for furnishing material or performing labor in the erection of said building or buildings.

12. Eighty thousand dollars is hereby appropriated for the construction and furnishing of said building or buildings, and in no case shall a contract be entered into which shall exceed the sum of eighty thousand dollars for the erection of said building or buildings and furnishing as aforesaid.

Ibid § 10.
Appropriation
for building.

13. The money herein appropriated shall be taken from the state school fund, and in its place shall be deposited eighty bonds of one thousand dollars each, bearing interest at the rate of four per cent. per annum; said bonds shall run for twenty years, but shall be redeemable by the state at its pleasure, after two years; said bonds shall be signed by the governor and state controller, countersigned by the state treasurer, and authenticated with the great seal of the state, and shall state in substance that the state of Nevada owes to its state school fund eighty thousand dollars, the interest on which sum, at four per cent. per annum, she agrees to pay during the life of said bonds, for the benefit of the common schools of the state; said bonds shall be lithographed, as is usual in similar cases, and deposited with the treasurer of the state. The interest on said bonds shall be paid semi-annually, on the first days of January and July of each year, on the written order of the state board of education to the state controller directing him to draw his warrant for the amount of such semi-annual interest on the indigent insane interest and sinking fund herein created. All sums derived from the interest on said bonds shall go into the general school fund, for the support of the common schools of the state, and for the regular and prompt payment of which the faith and credit of the state is hereby pledged.

14. There shall be levied and collected for the fiscal year commencing January first, eighteen hundred and eighty-one, and annually thereafter, an ad valorem tax of three cents on each one hundred dollars of all the taxable property in the state, including the tax upon the proceeds of mines, and all sums derived from this tax shall go into the indigent insane interest and sinking fund, for the payment of the interest and redemption of bonds herein authorized by this act.

Ibid § 12.
Taxes.

15. The board of commissioners, as named in this act, shall

Ibid § 13.
Powers and
duties of com-
missioners.

have full power and exclusive control of and over all the grounds, buildings, property, and inmates of the asylum, and shall furnish or cause to be furnished all needful supplies, provisions, and medicines for the care of the insane, and have charge of all other matters connected with the institution. They shall establish such rules, regula-

By-laws.

tions, and by-laws for the construction and government thereof as they may deem proper. The board of commissioners shall cause to be kept a record of their proceedings, which shall at all times be open to inspection by a committee of the legislature. During the first week of the

Records.

Report to leg-
islature.

session a report shall be submitted to the legislature, showing the annual receipts and expenditures, the condition of the asylum, number of patients admitted during the year, number remaining in the asylum at the date of report, and all matters touching the general affairs of the institution as they may deem proper, and shall from time to time, visit the asylum, examine into its affairs, condi-

Visits.

tion, government, and make thorough inspection thereof. The board of commissioners shall, at the expiration of the present contract with Drs. Langdon & Clark, of the state of

Provision for
the insane
until comple-
tion of the
asylum.

California, enter into a new contract with Dr. Asa Clark, of the state of California, to care for the insane patients of this state until July first, eighteen hundred and eighty-two, at the price per day per patient now paid Langdon & Clark.

16. The board of commissioners shall elect one resident physician, who shall be the general superintendent of the asylum, subject at all times to the order and direction of said board, who shall have power at

Ibid § 14.
Appointment
of superin-
tendent.

any time to discharge and remove said superintendent whenever in their judgment it shall be deemed proper for the best interests of the state. The superintendent so elected shall re-

His quali-
fication.

side at the asylum, be a graduate of medicine, and receive a salary of two thousand four hundred dollars per year, payable monthly, in equal instalments. He

His accounts.

shall cause to be kept a fair and full account of all his doings, and of the entire business and operations of the institution, and submit a monthly report to the board of com-

Powers.

missioners. The superintendent shall employ all

necessary help needed at the asylum, subject to the approval of the board of commissioners.

17. The governor, state controller, and state treasurer, are hereby constituted a board of commissioners for the purpose of providing for the care and maintenance of the indigent insane of this state.

Complied
Laws 1873,
§ 3740.
Board of com-
missioners
constituted.

18. A majority of said board shall constitute a quorum for the transaction of business. The board, as constituted herein, shall have power to purchase a suitable building or buildings of sufficient capacity for the accommodation of all the indigent insane in this state, and land connected therewith, not exceeding two hundred acres, or to purchase said quantity of land and erect thereon such building or buildings, and cause the insane of the state, now at Stockton, California, to be removed there.

§ 3741.
Quorum,
power of
board to pur-
chase build-
ings, etc.

19. All debts, contracted under the provisions of this act, shall be allowed and audited in the same manner as other proper charges against the state, and it may be lawful for the board of commissioners to pay for any land or lands and buildings, purchased with the bonds of this state issued under and by virtue of the provisions of this act, passed at this session of the legislature, entitled "An act to authorize a state loan for the purpose of paying the state proportion of the bonds issued under the act approved February sixth, one thousand eight hundred and sixty-seven, and to fund the floating debt and place the state upon a permanent cash basis."

§ 3742.
Debts con-
tracted, how
audited and
allowed.

20. From and after the passage of this act, it shall be the duty of the judge of the district court, in each judicial district in this state, upon the application of any person under oath setting forth that any person by reason of insanity is unsafe to be at large, or is suffering under mental derangement, to cause the said person to be brought before him at such time and place as he may direct; and the said judge shall also cause to appear, at the same time and place, one or more licensed practicing physicians, who shall proceed to examine the person alleged to be insane; and if said physicians, after careful examination, shall certify upon oath that the charge is correct, and if the judge is satisfied that such person is, by reason of insanity, unsafe to be at large,

§ 3743.
District judge
to examine
papers on ap-
plication.

Physicians.

Indigent in- and is incompetent to provide for his or her own
sane. proper care and support, and has no property appli-
cable for such purpose, and no kindred in the degree of husband,
or wife, father or mother, children, brothers or sisters, living
within this state, of sufficient means, and ability to provide
properly for such care and support, he shall cause the said in-
digent insane person to be conveyed to the insane
Expenses now borne. asylum of this state, at the cost and expense of the
county from which such person shall come, and place the said
person in charge of the proper person having charge of said
asylum, together with a copy of the complaint, commitment,
and physician's certificate, which shall be in such form as the
secretary of state shall prescribe.

21. The sum of fifty thousand dollars is hereby appropriated
§ 3744. out of any moneys now in or hereafter coming into
Appropriation. the state treasury, not otherwise specially appro-
priated, for the purpose of carrying out the provisions of this
act, during the years eighteen hundred and seventy-one and
eighteen hundred and seventy-two; and all sums due for the
support, care, clothing, and all other needful expenses, when
certified by said board of commissioners and approved by the
board of examiners, shall be audited by the controller and
paid by the state treasurer out of the fund hereby created.

22. It shall be the duty of the said board to make a full re-
§ 3745. Board re- port of all its proceedings under this act to the legis-
quired to re- lature at each session thereof.
port.

23. The board of commissioners for the care of the indigent
insane of this state, are hereby authorized and di-
Act of 1877, ch. 86, § 1. rected to make a contract for the proper care and
Indigent in- sane. maintenance of the indigent insane of this state, with
the parties at present in charge of the insane; *provided*, that
such contract shall not be for less than four years, and that
the price per patient shall be the same as under the existing
contract between the state and the same parties.

24. From and after the completion of this asylum, and when
Act of 1879, ch. 42, § 15. it shall be ready for the reception of patients, the in-
Patients re- sane patients now in California shall be received
moved from therein, and it shall be the duty of the judge of the
California. district court in each judicial district in this state, upon the ap-
plication of any person, under oath, setting forth that any per-

son, by reason of insanity, is unsafe to be at large, or is suffering under mental derangement, to cause the said person to be brought before him at such time and place as he may direct; and the said judge shall also cause to appear at the same time and place one or more licensed practicing physicians, Judge to call physicians. who shall proceed to examine the person alleged to be insane; and if said physicians, after careful examination, shall certify upon oath that the charge is correct, and if the judge is satisfied that such person is, by reason of insanity, unsafe to be at large, and is incompetent to provide for his or her own proper care and support, and has no property applicable for such purpose, and no kindred in the degree of Indigent insane. husband or wife, father or mother, children, brother or sister living within this state of sufficient means or ability to provide properly for such care and support, he shall cause the said indigent insane person to be conveyed to the insane asylum of this state, at the expense of the state, and place the said person in charge of the proper person having charge of the said asylum, together with a copy of the complaint, commitment, and physician's certificate, which shall be in such form as the board of commissioners may prescribe.

25. Paying patients whose friends or property can pay their expenses, shall pay according to the terms directed Ibid § 18. Paying patients. by the board of commissioners; but the insane poor shall, in all respects, receive the same medical care and treatment from the institution, and good, wholesome Rights of indigent patients. food, and no record of debt shall be made against them.

26. All sums due for the support, care, and clothing of the insane, and all other needful expenses of the asy- Ibid § 17. Expenses, how paid. lum shall be certified by the board of commissioners of said asylum and approved by the board of examiners, as now provided by the constitution of the state of Nevada, and audited by the controller, and paid by the state treasurer, out of any moneys in the state treasury appropriated for that purpose.

27. The state controller is hereby authorized to draw his warrant in favor of the commissioners for their incidental expenses in carrying out the provisions of Ibid § 18. Warrants. this act, after the board of examiners have properly allowed the same.

28. Whenever a convict, while undergoing imprisonment in the Nevada state prison, shall become insane and be so adjudged by a commission of lunacy, appointed by the court as in other cases of insanity, it shall be the duty of the warden to deliver such convict to the superintendent of the state insane asylum at Reno, Nevada, for detention and treatment therein.

Act of 1883,
p. 102, § 1.
Convict be-
coming insane
to be removed
to asylum.

29. The superintendent of the insane asylum shall receive such insane convict and safely keep him, and if such convict be restored to sanity before the expiration of his sentence to said prison, shall deliver him to the warden thereof, who shall retain such convict therein for the unexpired term of his sentence, unless said convict shall be released by order of the board of pardons. An escape from said insane asylum by any convict confined therein under the provisions of this act, shall be deemed an escape from the state prison, and be punished as such.

Ibid § 2.
When re-
turned to
state prison.

Escape,
penalty.

NEW HAMPSHIRE.

GOVERNMENT OF ASYLUM.

1. Location and title.
2. Government vested in board of trustees; appointment, vacancies.
3. Term of office.
4. Trustees, powers and duties.
5. Officers, appointment, salaries.
6. Trustees to receive no compensation.
7. To make rules for admission and care of patients.
8. Trustees may hold property in trust.
9. Annual reports of trustees.
10. Board of visitors, duties.
11. Report to be published.
12. Report of officers to be distributed.
13. Exemption of officers from militia service.
14. Property of asylum exempt from taxation.
15. Dangerous insane, commitment by judge.
16. Indigent insane, commitment by overseers of poor, support.
17. Commitment by supreme court, on neglect of overseers.
18. Commitment by relatives.
19. Physicians' certificate.
20. Indigent insane, supported at expense of county.
21. Private patients, when chargeable to county.
22. Reimbursement of county.
23. Discharge, in whose discretion; convicts remanded to custody.
24. Inspection of asylums by trustees, discharge of patients when sane.
25. Correspondence with board allowed.
26. Inquest on death of patient.
27. Application for support of indigent insane.
28. Inquisition of insanity for appointment of guardian.
29. Guardian, appointment of.
30. Appointment of guardian to be published.

CRIMINAL INSANE.

31. Transfer to asylum.
32. Insane convicts supported by state.
33. Insane convicts, transfer to asylum.

1. The asylum for the insane at Concord, is a corporation under the name of the New Hampshire asylum for the insane.

General Laws of
1878, ch. 10, § 1.
Corporate name.

2. The government of the asylum is vested in twelve trustees, appointed and commissioned by the governor, with advice of the council; and all vacancies shall be filled in the same manner.

Ibid § 2.
Trustees ap-
pointment of.

3. The trustees are classified and commissioned in such manner that the offices of three trustees become vacant annually.

Ibid § 3.
Tenure of
office.

4. The trustees shall take charge of the property and concerns of the asylum; shall see that its affairs are conducted properly; may enter into and bind the asylum by such contracts relative to the support of patients and the affairs of the asylum as they may deem ad-

Ibid § 4.
Trustees to
manage affairs
of asylum.

vantageous; and may receive, appropriate, control, convey, or invest any property given to or owned by the asylum in such manner as they may think expedient.

5. The trustees shall appoint a secretary, who shall keep a full and fair record of their proceedings; a treasurer, who shall give bond for the faithful discharge of his duty; and such physicians, officers, and assistants, with such salaries and allowances, as may from time to time be found necessary.

6. No trustee shall receive any compensation for his services as trustee, but expenses necessarily incurred by him shall be paid by the asylum.

7. The trustees may make such regulations for their own government, for the management of the asylum and all persons connected therewith, and for the admission and care of patients, and the same from time to time alter, as convenience may require.

8. The trustees may take and hold in trust for the asylum any grant or devise of real estate, or any donation or bequest of personal property, and may apply the same, unless otherwise restricted, to lessen the expenses of the indigent insane. No land connected with the asylum shall be taken for a highway or other public use, except by the express authority of the legislature, for that purpose first had and obtained.

9. The trustees shall make to the governor and council, annually, a report, covering that of the superintendent to them, of the receipts and expenditures of the asylum, the number of patients admitted and discharged during each year, and all other matters connected with the general interests of the asylum, which shall be furnished to the secretary of state on or before the twentieth day of April.

10. The governor and council, president of the senate, and speaker of the house shall constitute a board of visitors of the asylum; shall visit and inspect the same when necessary; examine into the condition of the patients, and the regulations and general management of the asylum; see that the design thereof is carried into full effect; and make to the legislature, biennially, a report, which shall be furnished to the secretary of state on or before the twentieth day of April next before the June session.

11. The secretary shall cause fifteen hundred copies of the reports of the superintendent, trustees, and board of visitors of the asylum to be printed and distributed, one copy each, to the governor, members of the council, senate, and house, and their officers; one copy to the clerk of each town; and the remaining copies to be placed in the hands of the board of visitors, for distribution as they shall order and direct.

*Ibid § 11.
Secretary to
cause report
to be printed
and dis-
tributed.*

12. * * * The report of the New Hampshire asylum for the insane * * * shall be furnished the state printer on or before the first day of May; * * * All of the said reports shall be printed, and the said reports for that and the preceding year shall be laid before the legislature during the first week of the session. * * * The secretary of state shall reserve five hundred copies of the several annual reports, and cause the same to be bound, and, as soon as may be after their publication, shall send one copy to the clerk of each town, for the use of said town, one copy to each society and library entitled to receive a copy of the laws and journals, and deposit the balance in the state library.

*Ch. 5, § 6.
Reports to be
furnished.*

13. The following persons are also exempted from military duty and shall not be included in said enrollment: that is to say * * * the attendants upon the insane, employed in the asylum for the insane. * * *

*Ch. 95, § 4.
Persons
exempt from
military duty.*

14. The property of the asylum is exempted from taxation.

Ch. 10, § 28.

15. If any insane person is in such condition as to render it dangerous that he should be at large, the judge of probate, upon petition by any person, and such notice to the selectmen of the town in which such insane person is or to the guardian or any other person, as he may order,—which petition may be filed, notice issued, and a hearing had in vacation or otherwise,—may commit such insane person to the asylum.

*Ibid § 12.
Persons dan-
gerous to be
committed to
asylum.*

16. Any insane pauper supported by any town may be committed to the asylum by order of the overseers of the poor, and there supported at the expense of such town; and such expense may be recovered by such town of the county, town, or person chargeable with the support of such pauper, in the same manner as if he had been supported in and by the town.

*Ibid § 14.
Insane paup-
ers, how com-
mitted by
town.*

17. If the overseers neglect to make such order in relation to any insane county pauper, the supreme court, or any two judges thereof in vacation, may order such pauper to be committed to the asylum, and there supported at the expense of the county.

*Ibid § 15.
County paup-
ers, how com-
mitted.*

18. The parent, guardian, or friends of any insane person may cause him to be committed to the asylum, with the consent of the trustees, and there supported on such terms as they may agree; but the city of Concord shall not, in any case, be liable for the support or maintenance of any person committed to said asylum, except from said city.

*Ibid § 17.
Parents,
guardians,
etc., may
commit; Con-
cord not to be
liable.*

19. No person shall be committed to the asylum for the insane, except by the order of the court or the judge of probate, without the certificate of two reputable physicians that such person is insane, given after a personal examination made within one week of the committal; and such certificate shall be accompanied by a certificate from a judge of the supreme court or court of probate, or mayor, or chairman of the selectmen, testifying to the genuineness of the signatures and the respectability of the signers.

*Ibid § 18.
Certificate of
two phy-
sicians re-
quired to
commit.*

20. Any insane person committed to the asylum by his parent, guardian, or friends, who has no means of support and no relatives of sufficient ability chargeable therewith, and no settlement in any town in this state, and who is in such condition that his discharge therefrom would be improper or unsafe, shall be supported by the county from which he was committed.

*Ibid § 19.
When county
shall support
insane person.*

21. When the means of support of any inmate of the asylum shall fail or be withdrawn, the superintendent of said asylum shall immediately cause notice in writing of that fact to be given to one of the county commissioners of the county from which such inmate was committed, and such county shall be liable and holden to pay to said asylum the expense of the support of such inmate from and after the service of such notice, and for ninety days next prior thereto.

*Ibid § 20.
When means
of support fail
counties to
support.*

22. The county paying the expense of the support of any inmate shall be entitled to recover the amount so

*Ibid § 21.
County may*

paid of any town, county, or individual by law
liable for the support of such inmate.

recover ex-
penses paid.

23. Any person committed to the asylum may be discharged by any three of the trustees or by any justice of the supreme court, whenever the cause of commitment ceases or a further residence at the asylum is, in their opinion, not necessary; but any person so discharged who was under sentence of imprisonment at the time of his commitment, the period of which shall not have expired, shall be remanded to prison.

Ibid § 22.
Discharge,
how effected.

24. Some one of the board of trustees of the asylum shall, without previous notice, visit that institution, at least twice every month, and give suitable opportunity to every patient therein who may desire it to make to him, in private, any statement such patient may wish to make; and, whenever in his opinion it may be deemed proper, he shall call to his aid two other members of said board, who shall, with him, make a further examination of such patient and of the statements by him made. If, in their view, the cause of commitment no longer exists or a further residence at the asylum is not necessary, it shall be their duty to discharge such patient. Should they deem the treatment of any patient injudicious, they shall order such an immediate change of the same as to them seems proper; and, in case of failure to secure it, they shall at once summon a meeting of the whole board, whose duty it shall be to take such measures as the exigency of the case demands.

Ibid § 23.
Trustees to
visit asylum,
and hear state-
ments of pa-
tients.

25. It shall be the duty of the superintendent to furnish stationery to any patient who may desire it, and transmit any letter such patient may address to the board of trustees, to such member as said board shall have designated to receive such correspondence, and all such letters shall be promptly transmitted without inspection.

Ibid § 24.
Superintend-
ents to furnish
stationery to
patients, and
transmit their
letters to
trustees.

26. In the event of the sudden death of any patient in the asylum, a coroner's inquest shall be held, as provided for by law in other cases.

Ibid § 25.
Inquest on patients
suddenly deceased.

27. The sum of six thousand dollars is annually appropriated for the maintenance of indigent insane persons belonging to this state at the asylum, for such and so

Ibid § 28.
Annual appro-
priation for in-

digent insane, and for library. many as the governor may from time to time approve; not less than two-thirds of which sum shall be applied annually to the support of private patients, exclusive of paupers maintained at public charge; and the sum of one hundred dollars is annually appropriated toward the support and increase of the library for the insane.

28. Upon application of any relative or friend of any insane person, or of the overseers of the poor of the town where he lives, made to the judge of probate for the county, that a guardian may be appointed over such person, the judge shall cause inquisition, with notice, to be made by three suitable persons by him appointed.

Ch. 186, § 1. Insanity, how determined. 29. If, upon the return of such inquisition and due examination had, it is decreed that such person is insane, the judge shall appoint a guardian over him; but no such decree or appointment shall be made until he has been cited to appear and show cause against the same.

Ibid § 2. Guardian for insane. 30. Every guardian of an insane person or spendthrift shall immediately upon his appointment give public notice thereof, in some newspaper circulated in the vicinity, or in such newspaper as the judge shall direct, and in all cases post a notification thereof in the town where his ward resides.

Ibid § 5. Guardians of insane or spendthrifts to give notice. 31. If any insane person is confined in any jail, the supreme court may order him to be committed to the asylum, if they think it expedient.

Ch. 10, § 13. Insane in jail to be committed. 32. Any insane person committed to the asylum by order of the supreme court, such person having been charged with an offense the punishment whereof as prescribed by law is death or confinement in the state prison, shall, during his confinement in the asylum for the insane, be supported therein at the expense of the state. Any insane person committed to the asylum by any court, except as herein provided, or by any judge of probate, shall be supported by the county from which he was committed.

Ibid § 16. What inmates of asylum for insane supported by state. 33. The governor, with advice of the council, may remove to the asylum, to be there kept at the expense of the state, any person confined in the state prison who is insane.

NEW JERSEY.

COUNCIL OF STATE CHARITIES AND CORRECTION.

1. Commissioners, appointment.
2. Term of office.
3. Meetings, by-laws, powers; inspection of charitable and correctional institutions.
4. To receive no compensation.
5. Appointment of committees to assist in inspection.
6. Delegates to attend national conference, reports, expenses.
7. Executive officers to keep records of patients, abstract submitted to clerk of council.
8. Annual report of council.

TRENTON ASYLUM.

9. Managers, appointment, vacancies.
10. Powers and duties, residence.
11. To furnish and equip asylum, and appoint officers.
12. Treasurer need not be resident.
13. Additional physician, appointment.

MORRISTOWN ASYLUM.

14. Commissioners to locate and erect asylum, appointment; not to be interested in contracts.
15. Commissioners to become managers.
16. Additional members appointed.
17. Term of office, vacancies, how filled.
18. Sale of liquor near asylum prohibited.
19. Apportionment of insane.
20. Adoption of rules for apportionment.
21. Patients removed to Morristown asylum, how supported.
22. Support of such persons, to whom chargeable.
23. Managers may hold property in trust.
24. By-laws, appointment of officers, regulations for asylum.
25. Superintendent, powers and duties.
26. Exemption of officers from militia and jury service.
27. Records of board of managers.

28. Inspections of asylum by managers, reports.
29. Books and records exhibited to managers by resident officers.
30. Treasurer, powers and duties, statements and audits.
31. Treasurer, powers of.
32. Actions for money due asylum.
33. Steward, powers and duties, abstracts, accountability.
34. Notice of completion of Morristown asylum; superintendent's circular.
35. Managers to receive no compensation.
36. Purchases to be made for cash, vouchers to be taken.

ADMISSION AND DISCHARGE.

37. Application for admission, contents of; physician's certificate.
38. Records of admission.
39. Proportion of patients from counties, regulated by managers.
40. Indigent insane, proceedings for admission.
41. Private patients, proceedings for admission.
42. Continuance in asylum on certificate of superintendent.
43. Admission to asylum, not to be for less than six months.
44. Admission by special agreement, in case of vacancies.
45. Patients applying for admission to be supplied with clothing.
46. Support of indigent insane, charges.
47. Support, liability for.
48. Clothing and supplies, expenses of, how borne.
49. Removal expenses, how borne.
50. Support, reimbursement of counties.
51. Powers of chancellor not abridged.
52. Discharge, on superintendent's certificate of sanity, or incurability; criminals excepted.
53. Discharged patients to be supplied with clothing and money.
54. Definition of terms.
55. Support of indigent insane, borne in part by state.

- 56. Transfer of insane paupers from almshouse to asylum.
- 57. Patients, when continued in asylum.
- 58. Transfer of patients from one asylum to another.
- 59. Commission of lunacy, appointment of guardians by court.
- 60. Dangerous insane, arrest and determination of settlement.
- 61. Overseers of the poor to furnish lists of insane.
- 62. Examination, and commitment.
- 63. Board of freeholders may act by committees.

SUPPORT OF INSANE IN COUNTY ASYLUMS.

- 64. Support of indigent insane in county asylum, expenses, how borne.

- 65. Insane paupers may be committed to county asylums.
- 66. Indigent insane may be committed to county asylum.
- 67. Private patients admitted to county asylums.
- 68. County asylums. rules for, appointment of officers.

CRIMINAL INSANE.

- 69. Insane before indictment or on acquittal, examination, commitment; expenses borne by county.
- 70. Insane convicts, inquisition of insanity, transfer to asylum.
- 71. Insane acquitted of misdemeanors, similar proceedings for.
- 72. Discharge, on order of judge.
- 73. Insane not to be committed to jail.

COUNCIL OF STATE CHARITIES AND CORRECTION.

- 1. The governor of the state shall appoint, by and with the advice and consent of the senate, six suitable persons, who shall constitute a council of state charities and correction, of which the governor of the state for the time being shall be president and a member ex-officio.

Act of 1853,
ch. 205, § 1.
Appointment
of commis-
sioners.

- 2. The persons first appointed shall serve for one, two, three, four, five, six years respectively, and all subsequent appointments shall be for six years, except to fill vacancies which occur through death, resignation or removal.

Ibid § 2.
Term of office.

- 3. The said council shall hold regular meetings quarterly at the state house, Trenton, and there or at such other places as it may designate, as often as may be necessary; it shall keep a book of minutes, and shall make such rules and regulations as to its own proceedings as it may deem necessary; it may investigate the system of public charities and correctional institutions of the state, and examine into the condition and management of all prisons, penitentiaries, jails, reform schools or other places of correctional detention, whether state, county, township, city, town or borough, and the same as to all lunatic asylums, hospitals, infirmaries or other public institutions of charity or care, and persons therein detained, and recommend in writing, such changes and additional provisions as it may deem necessary or desirable for the economical and efficient administration of any one or all of them, which recommendations shall be laid before the officers, directors and overseers of such institutions.

Ibid § 3.
Meetings,
powers.

4. The members of the said council, unless assigned to some special duties by the vote and special provision of said board, shall receive no compensation for their services, but their actual expenses incurred in the performance of their duties shall be paid by the treasurer of the state when audited by the comptroller and certified by the governor.

*Ibid § 5.
Members to
receive no
compensation
unless assigned
to special
duties.*

5. Said council may appoint from their own number, or from any county in which such institution exists, not to exceed two persons, to aid them in inquiry into any county, township, city or town institution of charity or correction in said precincts, who shall, in such case, be duly authenticated by the certificate of said council, signed by the president thereof; no inspection of any state institution shall be had by any inspector appointed by this council outside of its own members.

*Ibid § 6.
May appoint
persons to aid
in inquiry.*

6. The council may, each year, appoint one from its own number, and one from the officers of any correctional or charitable institution of this state, as a delegate to the annual meeting of the national conference of charities and correction; and it shall be their duty to make full report in writing for use by said council of charities and correction; and upon the auditing of said council and approval by the governor, the treasurer is authorized to pay their bill for actual expenses to an amount together not exceeding one hundred dollars.

*Ibid § 7.
May appoint
delegates to
national conference.*

7. The warden, physician, steward or other officer in charge of any institution of charities or correction in this state, whether state, county, township, city, town or borough, shall keep an exact register, in a form to be prescribed by the council of charities and correction, in which he shall enter the name, age, sex, nationality, orphanage or half orphanage, condition (whether married or single) of each person in his charge, and other facts throwing light upon the former heredity and history; also the dates of receipt and discharge, the time and authority of commitment, by whom committed and discharged, the cost of maintenance per day of each person, and the amount earned by each if employed in productive labor, and the hours of labor, with the amounts paid to or received from each; and on or before the

*Ibid § 9.
Officer in
charge of any
institution of
charities, etc.
to keep register
of name, age,
etc. of each person.*

first day of October of each year, as the council may direct, each state institution of charities and correction, and each county, township, city, town or borough shall send to the clerk of said council, at Trenton, an abstract of the same, for which the directors of any state charity or correctional institution may order payment, and for which each county, township, city or town governing board of any such local institution of charity or correction shall pay what they shall regard as adequate for the service rendered; said returns shall be uniform, on blanks furnished by the state, corresponding as nearly as possible with the books kept; and these facts shall be so studied and arranged by the council of charities and correction as may be necessary to aid in a knowledge of the cause of dependency, pauperism and crime.

8. The council of charities and correction shall annually prepare and present for the use of the legislature a report of all their doings during the year, stating the expenses incurred, the names of officers and agents employed, and showing the actual condition of the institution into which they have, by inspection, by statistics or by correspondence, inquired, and make such suggestions as they may deem necessary; and the council shall either accompany or give full information to any legislative committee that may from time to time be appointed to visit any such institutions.

Ibid § 10.
Annual report
to be made to
the legis-
lature.

TRENTON ASYLUM.

9. [Ten persons who are named are appointed managers, two to go out of office every year], and they shall hold their office until others are appointed in their stead, subject to being removed by the supreme court, at any time, upon the recommendation of the governor; their successors shall be appointed by the supreme court, at the January term, and shall hold their offices for five years and until others are appointed in their stead, and subject to be removed in the manner aforesaid; the supreme court, at any term, may fill vacancies in the board, but the person appointed to fill a vacancy shall only serve under such appointment for the unexpired time of the person whose place he is to supply.

Revision of
1877, p. 607,
§ 1.
Managers,
how appoint-
ed and vacan-
cies filled.

10. The government of the state lunatic asylum shall be

vested in the said board of managers, five of whom, Ibid p. 608, § 2. Powers and duties of managers. at least, shall reside within twelve miles of said asylum; they shall have the general direction and control of all the property and concerns of the institution, not otherwise provided for by law, and shall take charge of its general interests, and see that its design be carried into effect, and everything done faithfully according to the requirements of the legislature and the by-laws, rules and regulations of the asylum (and to this end they shall confer, counsel, advise and co-operate with the commissioners appointed to erect said asylum, whenever and as often as occasion may require); and the first meeting of the said board of managers shall be held in the city of Trenton, on Tuesday, the sixth day of April next.

11. Whenever the proper time shall arrive, the said board of managers shall provide the necessary stock, furniture, and property for the conducting of said asylum, and appoint a superintendent, who shall be a Ibid p. 608, § 3. Managers to appoint officers of asylum. well educated physician, and a treasurer, who shall give bonds for the faithful performance of his trust, in such sum and with such sureties as the said managers shall approve; they shall also, on the nomination of the superintendent, appoint a steward, who shall give bonds for the faithful performance of his trust, in such sum and with such sureties as the managers shall approve; they shall also, on the nomination of the superintendent appoint an assistant physician and a matron, all of whom shall constantly reside in the asylum, and be designated the resident officers thereof.

12. The treasurer of the state lunatic asylum shall not be required to reside in the asylum, nor be designated Ibid p. 614, § 41. Treasurer need not be resident. a resident officer thereof. * * *

13. The managers of the state lunatic asylum are hereby authorized, on the nomination of the superintendent, to appoint a second assistant physician, who shall reside in the asylum, and be designated one of the resident officers thereof.* Ibid p. 615, § 37. Managers may appoint second ass't physician.

* The further provisions for the government of the Trenton asylum are omitted, since the act of 1847, p. 18, and its supplements of 1848, '49, '53, '52, '55, '67, '69, '71 and '81, R. S., pp. 607-616, have become identical with the act of 1876, regulating the government of the Morristown asylum, see *infra*, pl. 23-58.

MORRISTOWN ASYLUM.

14. There shall be appointed by the governor of the state, Ibid p. 617, § 65, as amended by p. 620, § 83. Commissioners by and with the advice and consent of the senate, [seven] competent persons, one from each of the present congressional districts of the state, "commissioners to select a site and build an asylum for the insane of this state;" said commissioners shall not receive any compensation for the services herein imposed upon them except the actual expenses incurred in the discharge of their duties, nor shall said commissioners be in any way concerned in any contract for the erection of the said building or for furnishing supplies of any kind for the same.

15. The asylum * * * * shall be known by the name, Revision of 1877, p. 620, § 84. Commissioners constitute board of managers. style and title of "The State Asylum for the Insane, at Morristown, New Jersey," and for the purpose of organizing the details connected with the opening of said asylum, and for the purpose of opening the same for the admission of patients as soon as practicable, the aforesaid commissioners are hereby constituted a board of managers for said asylum, until otherwise ordered, with all the powers and authority given by law to the managers of the "New Jersey State Lunatic Asylum," and the said "The State Lunatic Asylum for the Insane at Morristown, New Jersey," shall, in all matters relating to the admission, treatment, continuance, and discharge of patients in and from the same, be subject to all the laws now in force relative to the said "New Jersey State Lunatic Asylum."

16. The governor by and with the advice and consent of the senate shall appoint three additional members of the board of managers of the state asylum for the insane, at Morristown, New Jersey, said members to be appointed from counties sending their indigent insane patients to said asylum, and not now represented in said board of managers. Act of 1879, ch. 94, § 1. The governor empowered to appoint three additional managers.

17. In February next, the members of said board of managers shall classify themselves by lot, so that two shall go out of office in the year one thousand eight hundred and eighty-one, and two in every year thereafter, and they shall hold their office until others are appointed in their stead, subject to being removed for cause, at any time, by the Ibid § 2. Term of office.

governor; their successors shall be appointed in like manner by the governor, and shall hold their offices for five years, and until others are appointed in their stead, and subject to be removed in the manner aforesaid; the governor at any time by the advice and consent of the aforesaid may fill vacancies in the board, but the person appointed to fill the vacancy shall only serve under such appointment for the unexpired term of the person whose place he is to supply.

18. From and after the passage of this act, it shall not be lawful for any person or persons to sell or expose for sale, or cause or knowingly permit to be sold or exposed for sale, directly or indirectly, any spirituous, malt, vinous or intoxicating liquors or beverages, or any composition of which such liquors or beverages or any of them shall form the chief ingredient, on any lands or place, lying and being within two miles of the boundary of the grounds owned by the state in the county of Morris, for the accommodation of the insane; and any person so offending shall be deemed guilty of a misdemeanor and on conviction, shall for the first offense, be fined not less than fifty Penalty. nor more than two hundred and fifty dollars, together with the costs of prosecution, or imprisoned in the county jail for not less than ten nor more than thirty days, or by both such fine and imprisonment, and for each subsequent offense not less than one hundred dollars and imprisonment for not less than twenty days in said jail; *provided, however*, that this act shall not apply to any lands or places which are now within the corporate limits of the town of Morristown.

19. The board of managers of the New Jersey state lunatic asylum, and the board of managers of the state asylum for the insane at Morristown, New Jersey, are hereby authorized, empowered and directed, by and with the consent of governor of this state, and in the manner hereinafter provided, to make, adopt and enforce rules and regulations for the apportionment and distribution to and between the said asylums of such insane persons as are now or may hereafter be sent to an asylum of this state by virtue of any law thereof, and for the removal of insane patients from either of the said asylums to the other, and from time to time to alter and repeal such rules and

Ibid p. 620,
§ 82.
Liquor not to
be sold within
two miles of
asylum
grounds.

Ibid p. 620,
§ 85.
Rules and
regulations
for apportion-
ment and dis-
tribution be-
tween the
asylums of
patients, etc.

regulations as the public interest may require; and all rules and regulations so made, adopted and altered, and all repealers, as aforesaid, shall have the force and effect of public statutes, and shall from time to time be published as the said governor shall direct.

20. Each rule or regulation, and each alteration or repeal of pre-existing rules or regulations, which shall be proposed to be made and adopted under the first section of this act,* shall be submitted in writing to each of the boards of managers aforesaid, and if adopted by a majority of the whole number of each board shall then be submitted in writing to the governor of this state for his approval, and no rule or regulation, nor alteration or repeal of pre-existing rules or regulations, shall take effect without the same is approved in writing by the said governor; in the event of a disagreement between the said boards respecting the adoption of any proposed rule or regulation, alteration or repeal aforesaid, the act proposed shall be submitted in writing to the governor who shall decide in writing the adoption or rejection or modification thereof, and shall communicate his decision to the said boards; all rules, regulations, alterations and repeals aforesaid, approved or decided by the governor as aforesaid shall be deposited in the office of the secretary of state, and certified copies thereof under the seal of said secretary shall be plenary proof thereof in all courts of this state.

21. Each insane patient who shall be removed to the state asylum for the insane, at Morristown, New Jersey, by virtue of the rules and regulations aforesaid, shall be there continued and treated, and until discharged according to law shall be there supported by the same committee, relative, person, county or other corporation chargeable by law with such support, at the time of such removal, in the same manner and to the same extent as if such patient had not been so removed; and the expense of removing any patient to either asylum, shall be paid by the party chargeable by law as aforesaid, with his or her support, upon the order of the steward of the asylum to which such pa-

Ibid p. 620,
§ 86.
To be sub-
mitted to each
board and ap-
proved by the
governor.

Rules, etc.,
to be filed;
where.

Ibid p. 621,
§ 87.
Support of in-
sane patients
removed to
the asylum at
Morristown.

* See § 85, pl. 19.

tient shall be removed, countersigned by the superintendent thereof.

22. Each insane patient admitted under said rules and regulations into the state asylum for the insane, at Morristown, New Jersey, shall be supported there according to law, by the committee, relative, person, county or other corporation which would have been chargeable with the support of such patient if he or she had not been sent to an asylum, in the same manner and to the same extent as is now provided by law respecting insane patients in the New Jersey state lunatic asylum.*

Ibid p. 621,
§ 88.
Support of
such patient
admitted, to
whom charge-
able.

23. The managers may take and hold in trust for the state any grant or devise of land, or any donation or bequest of money or other personal property to be applied to the maintenance of insane persons or the general use of the said asylum.

Ibid p. 621,
§ 89.
Managers
may hold in
trust for state,
lands, etc.

24. Said managers are hereby authorized to establish such by-laws as they may deem necessary and expedient, for regulating the appointment of the officers hereinafter mentioned, and such other officers as they may find necessary, for fixing the conditions of admission, support and discharge of patients, and for conducting in a proper manner, the affairs and business of the institution, and to ordain to enforce a suitable system of rules and regulations for the internal government of said asylum; and they shall fix the compensation of said officers, by and with the consent of the governor, which compensation shall be paid by the state treasurer on the warrant of the comptroller.†

Ibid p. 621,
§ 90.
May make by-
laws for regu-
lating the ap-
pointment of
officers, etc.

25. The superintendent shall be the chief executive officer of the said asylum; he shall have the general superintendence of the buildings, grounds, and farm, with their furniture, fixtures and stock, and the direction and control of all persons therein, subject to the laws and regulations established by the managers; he shall daily ascertain the condition of the patients, and prescribe their treatment, in the manner prescribed in the by-laws; he shall

Ibid p. 621, § 91
Powers and
duties of the
superinten-
dent.

* See note to pl. 13.

† This section corresponds to §§ 4 and 6 of act of 1847 except that in the case of the Trenton asylum the managers are limited to \$8,000 by act of 1867, p. 196, § 2, R. S. p. 616.

appoint, with the approval of the managers, so many assistants and attendants as he may think proper and necessary for the economical and efficient performance of the business of the said asylum, and to prescribe their several duties and places, and to fix, with the managers' approval, their compensation, and to discharge any of them at his sole discretion; but in every case of discharge, he shall forthwith record the same, with the reasons, under an appropriate head, in one of the books of the said asylum; he shall also have power to suspend, until the next monthly meeting of the managers, for good and sufficient cause, a resident officer; but in such case he shall give written notice of the fact, with its causes and circumstances, to one of the managers, whose duty thereupon shall be to call a special meeting of the board, to provide for the exigency; he shall also, from time to time, give such orders and instructions as he may judge best calculated to ensure good conduct, fidelity, and economy in every department of labor and expense; and he is authorized and enjoined to maintain salutary discipline among all who are employed by the institution, and to enforce strict compliance with such instructions, and uniform obedience to all the rules and regulations of the asylum; he shall cause full and fair accounts and records of all his doings, and of the entire business and operations of the institution, to be kept regularly from day to day, in books provided for that purpose, in the manner and to the extent prescribed in the by-laws; and he shall see that all such accounts and records are fully made up to the last day of October in each year, and that the principal facts and results, with his report thereon, be presented to the managers immediately thereafter; the assistant physician shall perform his duties, and be subject to the responsibility of the superintendent, in his sickness or absence.

26. The resident officers of the said asylum, and all attendants and assistants actually employed therein, during the time of such employment, shall be exempt from serving on juries, and, in time of peace, from all service in the militia; and the certificate of the superintendent shall be evidence of the fact of such employment.

27. The board of managers shall keep, in a bound book to be provided for that purpose, a fair and full record

Ibid p. 622,

§ 92.

Exemption

from jury

duty and mil-

itary service.

Ibid p. 622,

§ 93.

of all their doings; which shall be open at all times to the inspection of the governor of the state, and all persons whom he or either house of the legislature may appoint to examine the same.

Board of managers to keep a record of all their doings.

28. The managers shall maintain an effective inspection of the said asylum, for which purpose one of them, or more, shall visit it at least once in every week; two or more, at least once in every month; a majority at least once in every three months; and the whole board once a year, at the times and in the manner prescribed in the by-laws; in a book to be kept for that purpose, the visiting manager or managers shall note the date of each visit, the condition of the patients, with remarks of commendation or censure, and all the managers present shall sign the same; the general result of these inspections, with suitable hints, shall be inserted in an annual report, detailing the past year's operations and actual state of the asylum; which the managers shall make to the governor, on or before the fifteenth day of November in each year, to be by him presented to the legislature, accompanied with an annual report of the superintendent and treasurer.

Ibid p. 622, § 84.
Visits of managers to asylum.

Annual report.

29. It shall be the duty of the resident officers to admit any of the managers into every part of the said asylum, and to exhibit to him or them, on demand, all books, papers, accounts and writings belonging to the institution or pertaining to its business, management, discipline or government; also, to furnish copies, abstracts, and reports, whenever required by the managers.

Ibid p. 622, § 85.
Officers to exhibit books, etc. to managers.

30. The treasurer shall have the custody of all moneys, bonds, notes, mortgages, and other securities and obligations belonging to the said asylum; he shall open an account at one or more banks, to be approved by the managers, in his own name, as treasurer of the asylum, and he shall deposit therein all moneys, immediately on receipt thereof, and shall draw for the same only for the uses of the asylum, and in the manner prescribed in the by-laws, upon the written order of the steward, specifying the object of the payment; he shall keep full and accurate accounts of receipts and payments, in the manner directed in the by-laws, and such other accounts as the managers may prescribe; he shall balance all the accounts of his books annually, on the last day of Oc-

Ibid p. 622, § 86.
Powers and duties of the treasurer.

tober, and make a statement of the balances thereon, and an abstract of the receipts and payments of the past year; which he shall within two days thereafter, deliver to the auditing committee of the managers, who shall compare the same with his books and vouchers, and certify the correctness thereof, within the next three days, to the managers; he shall, further, render a quarterly statement of his receipts and payments, on the first Monday of February, May and August, in each year, to the auditing committee, who shall compare and verify the same as aforesaid, and report the results thereof, duly certified, to the managers, who shall cause the same to be recorded in one of the books of the asylum; he shall, further, render an account of the state of his books, and of the funds and other property in his custody, whenever required so to do by the managers.

Quarterly
statements of
receipts and
payments to
be made.

31. The treasurer of the state asylum for the insane at Morristown, New Jersey, shall be vested with the same powers, rights and authority which are now given by law to the overseers of the poor in any township or city in the state, so far as may be necessary for the indemnity and benefit of the said asylum, and for the purpose of compelling a relative, or committee, or guardian, to defray the expenses of a lunatic's support in the asylum, and reimburse actual disbursements for the necessary clothing and traveling expenses, according to the by-laws of the institution; also, for the purpose of coercing the payment of similar charges, when due from any county that is liable for the support of any lunatic in said asylum.

Ibid, p. 623,
§ 97.
Treasurer may
compel pay-
ment of ex-
penses of lu-
natics.

32. Said treasurer shall also have authority to recover, for the use of the said asylum, any and all sums which may be due upon any note or bond in his hands belonging to the asylum; also, any and all sums which may be charged and due, according to the by-laws of the asylum, for the support of any patient therein, or who may have been therein, or for actual disbursements made in his behalf for necessary clothing and traveling expenses, in an action to be brought in said treasurer's name, as treasurer of the state asylum for the insane at Morristown, New Jersey, and which shall not abate, by his death or removal, against the individual or county legally liable for the maintenance of

Ibid p. 623,
§ 98.
Moneys due,
how recovered.

said patient, and having neglected to pay the same when demanded by the treasurer, on which action the declaration may be in a general *indebitatus assumpsit*, and judgment shall be rendered for such sum as shall be found due, with interest from the time of the demand made as aforesaid; said treasurer may also, upon the receipt of the money due upon any mortgage in his hands belonging to the asylum, execute a release, and acknowledge full satisfaction thereof, so that the same may be discharged of record.

33. The steward shall, under the direction of the superintendent, make all purchases for the said asylum, Ibid p. 623 § 88. Duties of steward. and preserve the original receipts thereof, and keep full and accurate accounts of the same, and copies of all orders drawn by himself upon the treasurer; he shall also, under like directions, make contracts, in the superintendent's name, with the attendants and assistants, and keep and settle their accounts; he shall also keep the account for the support of the patients, and expenses incurred in their behalf, and furnish the treasurer every month with copies of such as fall due; he shall make quarterly abstracts of all his accounts to the last Monday of every January, April, July and October, for the treasurer and managers; he shall Shall make quarterly abstracts of all his accounts. also be accountable for the careful keeping and economical use of all furniture, stores and other articles provided for the asylum, and shall, annually, during the third week in October, make out and furnish the managers with a true and perfect inventory, verified by oath, of all the personal property belonging to the asylum, in and about the premises, with an appraisal thereof, made, under oath or affirmation, by himself and two suitable persons, whom the managers shall appoint for that purpose.

34. As soon as the said asylum shall be ready for the admission of patients the managers shall call notice thereof to be published and also to be sent to the clerk of every county from which lunatics are entitled to be admitted under, said rules and regulations, who shall transmit a copy thereof to the overseer of the poor of each township in their respective county; a circular from the superintendent shall accompany such notice to each county clerk and overseer of the poor, designating different Ibid p. 623, § 100. Managers shall give notice when the asylum is ready for the admission of patients.

days for the counties, severally, to send to the asylum their respective quotas of patients, and giving all necessary directions respecting admission and support, according to the by-laws.

35. The managers of the state asylum for the insane, at Morristown, New Jersey, shall receive no compensation for their services; but they shall receive their actual traveling expenses, to be paid by the state treasurer, on the warrant of the auditor, on the rendering of their accounts; no court, judge, clerk or other officer shall receive any compensation for any services performed under this act.

Ibid p. 627,
§ 122.
Managers not
to receive any
compensation
for services.

36. All purchases for the use of said asylum shall be made for cash, and not on credit or time; every voucher shall be taken duly filled up at the time it is taken; accompanying every abstract of vouchers for money paid, there shall be proof, on oath, that the voucher was filled up and the money paid therefor, at the time the voucher was taken; and the managers shall make all needful rules to enforce the provisions of this section.

Ibid p. 627,
§ 123.
Purchases
for asylum,
how to be
made.

ADMISSION AND DISCHARGE.

37. No person shall be admitted into said asylum, as a patient, except upon an order from some court or judge authorized to send patients, without lodging with the superintendent—first, a request, under the hand of the person by whose direction he is sent, stating his age and place of nativity, if known, his christian name and surname, place of residence, occupation, and degree of relationship, or other circumstance of connection between him and the person requesting his admission; and second, a certificate dated within one month, under oath, signed by a respectable physician, of the fact of his being insane; each person signing such request or certificate shall annex to his name his profession or occupation, and the township, county and state of his residence, unless these facts appear on the face of the document.

Ibid p. 623,
§ 101.
Admission of
patients.

38. The superintendent shall make, in a book kept for the purpose, at the time of reception, a minute, with date, of the name, residence, office and occupation of the person by whom or by whose authority each insane

Ibid p. 624,
§ 102.
Record of ad-
missions to be
kept.

person is brought to the said asylum, and have all the orders, warrants, requests, certificates, and other papers accompanying him, carefully filed, and forthwith copied into said book.

39. Each county entitled to send lunatics to said asylum, under said rules and regulations, may at all times keep such number of patients, in just proportion with other counties, as the asylum can accommodate, which proportion shall be regulated by the managers; if any one or more of the counties should not send their full proportion, the vacancies may be allotted by the managers to other counties so entitled having patients whom they may desire to send.

*Ibid p. 624,
§ 103.
Proportion of
patients to
each county.*

40. Whenever any pauper, chargeable in any county entitled to send patients to said asylum under said rules and regulations, may be insane, it shall be the duty of the overseer of the poor in the township wherein he resides, to make application on his behalf to any judge of the court of common pleas of the county; and said judge shall call one respectable physician, and fully investigate the facts of the case, and if satisfied, after such examination, that the disease is of such a nature as may be cured, he shall issue a provisional order to such overseer, which shall be effectual when approved as hereinafter provided, requiring him without delay to take such insane pauper to said asylum, where he shall be kept and supported at the expense of the county in which is his residence, until he shall be restored to soundness of mind, if effected in three years; the judge, in such case, shall have power to compel the attendance of witnesses, and shall present the certificate of the physician, taken under oath, and other papers relating thereto, and a paper of the proceedings and decision to the chosen freeholder, or freeholders, if there be but one by law or but one acting by reason of the death, sickness or other disability of the other, of the township where such lunatic is found, who shall examine the same, and if satisfied that said lunatic has a legal settlement in their county as defined by the act entitled "An act for the settlement and relief of the poor," approved April tenth, eighteen hundred and forty-six, and is entitled to the relief afforded by this act, shall endorse the word "approved" upon said certificate and proceedings, and shall sign their official names thereto; which said certificate and proceedings shall be filed with the clerk of the county, who shall

*Ibid p. 624,
§ 104.
Proceeding in
case of insane
paupers.*

forward to the superintendent of the asylum where such insane pauper is confined, copies of said proceedings and certificate authenticated by the clerk under seal of the court, and report the facts to the board of chosen freeholders, whose duty it shall be to raise the money requisite to meet the expenses of support, and as soon thereafter as practicable pay it to the treasurer of the asylum; but if said freeholders shall not be satisfied as aforesaid, they shall endorse on said certificate and proceedings the words "not approved" and shall sign their official names thereto, and the same shall then be filed with the clerk of the board of chosen freeholders, and said lunatic shall not be admitted to the said asylum at the expense of the said county.

41. When a person residing in a county entitled to send lunatics to said asylum under said rules and regulations, and in indigent circumstances, not a pauper, becomes insane, application may be made in his behalf to any judge of the court of common pleas of the county where he resides; and said judge shall call a respectable physician and other credible witnesses, and fully investigate the facts of the case, and either with or without the verdict of a jury, at their discretion shall decide the case as to his insanity and indigence; and if the said judge make a certificate that satisfactory proof has been adduced, showing him to be insane, and his estate insufficient to support him and his family (or if he has no family, himself), under the visitation of insanity, on such certificate, authenticated by the county clerk, under the seal of the court, he shall be admitted into said asylum, and supported there, at the expense of said county, until he shall be restored to soundness of mind, if effected in three years; the said judge in such case shall have requisite power to compel the attendance of witnesses and jurors, and shall file the certificate of the physician, taken under oath, and other papers relating thereto, with a report of his proceedings and decision, with the clerk of the county, and report the fact to the board of chosen freeholders, whose duty it shall be to raise the money requisite to meet the expenses of support, and, as soon thereafter as practicable, pay it to the treasurer of the asylum; *provided however*, that if such investigation be made without summoning a jury therein, the said certificate and proceedings shall be presented

Ibid p. 624,
§ 103.
Proceedings
in case of
indigent in-
sane persons
not paupers.

Proviso.

to the freeholder or freeholders of the township where such lunatic is found, who shall examine and proceed thereon in all respects and with the same force and effect as is provided in that behalf in the last preceding section of this act, and the clerk of said county shall, if said freeholders approve said certificate and proceedings, report the facts to the board of freeholders whose duty it shall then be to provide for the expenses of the support of said lunatic and to pay the amount as soon as practicable to the treasurer of said asylum.

42. When an insane person residing in a county entitled to send lunatics to said asylum under said rules and regulations, and in indigent circumstances, shall have been sent to said asylum by his friends, who have paid his bills therein for six months, if the superintendent shall certify that he is a fit patient, and likely to be benefited by remaining in the institution, the chosen freeholders of the county of his residence are authorized and required, upon an application, under oath, in his behalf, to raise a sum of money sufficient to defray the expenses of his remaining there a year, and pay the same to the treasurer of said asylum; and they shall repeat the same for two succeeding years, upon like application, and the production of a new certificate each year, of like import, from the superintendent.

Ibid p. 625,
§ 106.
Extension of
time of
patient in
asylum.

43. No person shall be admitted into said asylum for a shorter period than six months, except in special cases provided for in the by-laws.

Ibid p. 625,
§ 107.

44. The managers may authorize the superintendent to admit, under special agreements, whenever there are vacancies in said asylum, such cases as may seek admission.

Ibid p. 625
§ 108.
Admission in
case of vacan-
cies.

45. All town and county officers sending a patient to said asylum, shall, before sending him, see that he is in a state of perfect bodily cleanliness, and is comfortably clothed, and provided with suitable changes of raiment, as prescribed in the by-laws.

Ibid p. 625,
§ 109.
County officers
to provide
clothing.

46. The price to be paid for keeping any person in indigent circumstances in the asylum, exclusive of clothing, shall be annually fixed by the managers, and shall not exceed three dollars per week; but the managers

Ibid p. 626,
§ 113,
as amended
by act of 1881,
ch. 214.

Price for
keeping indigent
patient
fixed by man-
agers annu-
ally.

may reduce the price, if they think proper, in behalf of one indigent patient from each county, if admitted within six months of the first attack of the disease, for one year, unless sooner cured.

47. Every insane person supported in said asylum shall be personally liable for his maintenance therein, and all necessary expenses incurred by the institution in his behalf; and the committee, relative, or county that would have been bound by law to provide for and support him, if he had not been sent to the asylum, shall be liable to pay the expenses of his clothing and maintenance in the asylum, and actual necessary expenses to and from the same.

Ibid p. 626,
§ 114.
Who liable
for expenses
of patients.

48. The expenses of clothing and maintenance in said asylum, of a patient who has been received upon the order of any court or judge, shall be paid by the county from which he was sent to the asylum; the county collector of said county is authorized and directed to pay to the treasurer of the asylum the bills for such clothing and maintenance, as they shall become due and payable, according to the by-laws of the asylum, upon the order of the steward, countersigned by the superintendent; and the chosen freeholders of the said county shall annually levy and raise the amount of such bills, and such further sum as will probably cover all similar bills for one year in advance; said county, however, shall have the right to require every individual or county that is legally liable for the support of such patient, to reimburse the amount of said bills, with interest, from the day of paying the same.

Ibid p. 626,
§ 115.
Expenses,
clothing, etc.
of patients
sent by
counties,
how paid.

49. Whenever the managers shall order a patient removed from the said asylum to the county whence he came, the collector of said county shall audit and pay the actual and reasonable expenses of such removal, as part of the expenses of said county; but if any person be legally liable for the support of such patient, the amount of such expenses may be recovered, for the use of the county, by said collector; if such collector neglect or refuse to pay such expenses on demand, the treasurer of the asylum may pay the same, and charge the amount to said county, and the county collector shall pay the same

Ibid p. 626,
§ 116.
Expenses of
removal of
patients from
asylum, how
settled.

with interest; and the chosen freeholders of said county shall levy and raise the amount, as other county charges.

50. Every township or county paying for the support of a lunatic in said asylum, as for his expenses in going to or from the same, shall have the like rights and remedies to recover the amounts of such payments, with interest from the time of paying such bill, as if such expense had been incurred for the support of the same, at other places under existing laws.

Ibid p. 626,
§ 117.
Expenses of
support how
recovered.

51. None of the provisions of this act shall restrain or abridge the power and authority of the court of chancery over the persons and property of the insane.

Ibid p. 626,
§ 118.

52. The said managers, upon the superintendent's certificate of a complete recovery, may discharge any patients, except those under a criminal charge, or liable to be removed to prison; and they may send back to the poorhouse of the county or township whence he came, any person admitted as "dangerous," who has been two years in said asylum, upon the superintendent's certificate that he is harmless, and will, probably continue so, and not likely to be improved by further treatment in the said asylum, or when the asylum is full, upon a like certificate that he is manifestly incurable, and can probably be rendered comfortable at the poorhouse, they may also discharge and deliver any patient, except one under criminal charge as aforesaid, to his relatives or friends, who will undertake, with good and approved sureties, for his peaceable behavior, safe custody, and comfortable maintenance, without further public charge.

Ibid p. 626,
§ 119.
Discharge of
patients by
managers on
certificate of
the superin-
tendent.

53. No patient shall be discharged without suitable clothing, and, if it cannot be otherwise obtained, the steward shall, upon the order of two managers, furnish it; also money, not exceeding ten dollars, to defray his necessary expenses, until he reaches home.

Ibid p. 627.
§ 121.
Clothing, etc.
to be fur-
nished on dis-
charge.

54. The terms "lunatic" and "insane," as used in this act, include every species of insanity, and extend to all deranged persons, and to all of unsound minds, other than idiots; the words "asylum" and "institution" mean state asylum for the insane, at Morristown, New Jersey; a word denoting the singular number is to in-

Ibid p. 627,
§ 124.
Terms "luna-
tic" and "in-
sane," etc.,
defined.

clude one or many; and every word importing the masculine gender only, may extend to and include females.

55. There shall be paid from the state treasury, in quarterly payments, and upon the warrant of the comptroller, to the treasurer of the said asylum, the sum of one dollar per week toward the maintenance and keep of each indigent patient in said asylum, being the same amount now allowed by law to the state lunatic asylum at Trenton, for the same purpose.

Ibid p. 627,
§ 125.
Payment to be
made by the
state treasurer
for indigent
patients.

56. If the judge to whom application shall be made on behalf of any insane pauper shall be satisfied upon the examination of the case, made in the manner prescribed by the twenty-third section* of this act, that such insane pauper cannot be provided for by the overseer of the poor of the township, or at the poorhouse of the township or county upon which he is chargeable, with comfort and without danger or prejudice to himself or others, the said judge shall order the said pauper to be removed to the said asylum, to be kept and supported in the manner and for the time in the said section mentioned.

Ibid p. 627,
§ 126.
When judge
may order in
sane pauper
to be removed
to the asylum.

57. If the board of chosen freeholders of the county upon which any insane patient may be chargeable, shall, at any regular or special meeting, request that such patient be continued at the said asylum for a period of time beyond the three years mentioned in this act, the said patient shall be kept and supported at said asylum for such period of time, at the expense of the said county, to be raised and paid in the manner prescribed by the said act; *provided*, that the said board of chosen freeholders may at any time revoke the said request; and *further*, that such patient may be discharged or sent back to the overseers of the poor, or to the poorhouse of the township or county whence he came, in the manner and for the reasons mentioned in the thirty-eighth section of this act.†

Ibid p. 627,
§ 117.
Patient may
be continued
in asylum on
request of
chosen free-
holders.

58. When any patient shall be removed from one of the said state asylums to the other, under the rules and regulations hereinbefore authorized and directed, it

Ibid p. 627
§ 128.
Duty of the

* See § 107, pl. 43, *supra*.

† This should be § 35 of the act; see § 119, pl. 52, *supra*.

shall be the duty of the superintendent of the asylum from which he is removed, to deliver to the superintendent of the asylum to which he is removed, the official documents and papers under the authority of which the said patient was received and under which he is detained, and the said documents and papers shall be as full and ample authority for detaining such patient in the asylum to which he is removed, as if such patient had not been so removed.

superintendents in case of the removal of any patient from one asylum to the other.

59. All cases of idiocy and lunacy shall be determined by an inquest, on a commission of idiocy or lunacy, issued out of the court of chancery and returnable thereto, and the proceedings thereon shall be as heretofore practiced, and in cases of idiocy or lunacy found, the chancellor shall cause to be transmitted to the orphans' court of the county where such idiot or lunatic may reside, a certified copy of all proceedings which may be had thereon, which shall be recorded and filed in the surrogate's office of said county; and the said orphans' court is hereby directed and required, on further application for that purpose, to appoint some fit and discreet person or persons, guardian or guardians of such idiot or lunatic. * * * *

Ibid p. 601, § 1. Proceedings in idiocy and lunacy.

Orphans' court to appoint guardian.

60. It shall and may be lawful for any two justices of the peace of the county in which any lunatic too furiously mad or dangerous to be permitted to go at large shall be found, by warrant under their hands and seals, directed to the overseer or overseers of the poor of the city or township in which such lunatic or mad person may be found, to cause such person to be apprehended and kept safely locked up, and chained, if necessary, in some secure place within such city or township, or within the county within which said city or township shall be situate, as such justices shall by their warrant direct and appoint, in case the last legal settlement shall be in a city or township in the said county; but in case the last legal settlement of such lunatic or mad person, shall not be in any city or township within the county where such person shall be found, then such person shall be sent to the place of his or her last legal settlement, in the manner di-

Ibid p. 605, § 21. Proceedings when lunatic dangerous if at large.

To be sent to place of settlement.

directed in and by the laws relating to the poor, and shall be locked up and chained, if necessary, in some secure place, by warrant from two justices of the peace of the county, to which such person shall be sent in manner aforesaid; and in case the last legal place of settlement is not known, or cannot at the time be ascertained, it shall and may be lawful for any two justices of the peace in and for said county, by warrant under their hands and seals, directed to some one or more of the constables or overseers of the poor of the city or township within such county, to cause such person to be apprehended and conveyed to any place provided in said county for the reception of maniacs or lunatic persons; and in case no such place be provided in such county, to be conveyed to the jail of said county for safe keeping; and it shall be the duty of the sheriff of such county, and he is hereby required to receive into his custody such lunatic or mad person, and safely to keep him or her until the last legal place of his or her settlement shall be ascertained; and in case no such settlement can be discovered, then until some order on the subject shall be taken by the court of common pleas, whose duty it shall be to decide thereon, and the reasonable charges for apprehending, maintaining, keeping and removing such person, shall be made and levied of the goods and chattels of such person, by warrant of distress, from two justices of the peace of the county where such goods and chattels may be found; but in case sufficient goods and chattels of such lunatic or mad person cannot be found, the charges aforesaid shall be paid and satisfied by the overseers of the poor of the city or township in which such person shall be legally settled, in the manner in and by the poor laws directed for the maintenance and support of the poor; and in case the last legal settlement is not known or cannot at the time be ascertained, the said charges and expenses shall be paid and satisfied by the county wherein such person shall have been apprehended. * * *

61. It shall be the duty of the overseers of the poor of the several townships in each and every county in this state, to make out and furnish to the board of chosen freeholders of the county in which said townships are situated a list of all the poor lunatics and idiots within the bounds of their townships, stating the age of such

Ibid, p 606,
§ 22.
Overseers of
poor to fur-
nish lists of
insane.

lunatics or idiots, when such lunacy commenced, what means (if any) they have for support, with all other facts connected with each case, calculated to give information of their actual state and condition.

62. The said board of chosen freeholders shall, at their annual meeting, cause an examination to be made into the condition and circumstances of such idiots and lunatics; and if it shall appear to them that there is reasonable ground to believe that any of such persons can be restored to their right mind, it shall be their duty to cause such persons, under a warrant, signed by the director of the board, to be taken to the state lunatic asylum.

Ibid p. 606,
§ 23.
When sent to
asylum.

63. It shall and may be lawful for such board of chosen freeholders to appoint a committee of said board to act in the intervals between the fixed and general meetings, if they shall deem it expedient so to do, of such number and with such powers as they shall deem proper.

Ibid p. 606,
§ 24.
Freeholders
may act by
committee.

SUPPORT OF INSANE IN COUNTY ASYLUMS.

64. The sum of one dollar per week for each county patient confined in any county lunatic asylum, established by the board of chosen freeholders of such county, shall be paid by the state treasurer on the warrant of the comptroller, to the director of such board of chosen freeholders, upon a statement to be furnished by him, giving the number of such county patients which may have been thus supported in said asylum, during the preceding quarter, computing from the first day of January, one thousand eight hundred and seventy-three.

Ibid p. 622,
§ 129.
County luna-
tic asylums.

65. The different county insane asylums heretofore established, or which may be hereafter established, by the boards of chosen freeholders of said counties, in all cases in which by the laws of this state, the expense of the maintenance, charge, and care of an insane pauper in the state lunatic asylums, now is made chargeable to any of said counties, or shall hereafter be made so chargeable, it shall be lawful after the insanity of the pauper shall be ascertained in the manner prescribed by the provisions of the act entitled "An act for the organization of the state lu-

Act of 1880,
ch. 68, § 1.
Insane pau-
pers may be
placed in
county asy-
lums.

natic asylum, and for the care and maintenance of the insane," approved February twenty-third, one thousand eight hundred and forty-seven, and supplements thereto to place such insane pauper in the asylums of said counties, respectively, at their expense, there to remain for the length of time set forth in the said act and supplements thereto.

66. In all cases where, by the laws of this state, a person in indigent circumstances, not a pauper, becomes insane and application shall be made in his behalf in the mode and manner prescribed by the act last aforesaid and the supplements thereto, it shall be lawful to place such person in the county asylum of the county where he resides, for the length of time in the said act and supplements expressed, if such person be chargeable to said county.

Ibid § 2.
Insane indigents may be placed in insane asylums of county where they reside.

67. The said boards of chosen freeholders of said county, respectively, may, in their discretion, receive insane patients in said asylums, respectively, for pay, under such regulations as they may prescribe, the proceeds of which pay shall be expended under the direction of said boards towards the support of under said county asylums, respectively.

Ibid § 3.
Insane patients may be received for payment in county asylum.

68. The said boards are hereby authorized to establish such by-laws as they may deem necessary and expedient, for regulating the appointment of the superintendent or warden, and such other officers as they may deem necessary, but subject to removal at any time by a vote of two-thirds of the members of the board, for fixing the terms of admission, support, and discharge of patients, and for conducting in a proper manner the affairs and business of said asylums; and to ordain and enforce a suitable system of rules and regulations for the internal government thereof; and they shall fix the compensation of said officer or officers which compensation and all expenses and charges incurred in the erection, purchase, or hiring of buildings, furnishing the same and maintaining and conducting the said asylums, shall be paid by the county collectors of said counties, from funds raised or to be raised by taxation, as other county expenses are raised and paid.

Ibid § 4.
Regulations and by-laws made by board of freeholders.

CRIMINAL INSANE.

69. When a person shall have escaped indictment, or have been acquitted of a criminal charge upon trial, on the ground of insanity, upon the plea pleaded of insanity or otherwise, the court, being certified by the jury or otherwise of the fact, shall carefully inquire and ascertain whether his insanity in any degree continues, and if it does, shall order him in safe custody, and to be sent to the asylum prescribed by the rules and regulations aforesaid; the county from which he is sent shall defray all his expenses while there, and of sending him back, if returned; but the county may recover the amount so paid from his own estate, if he has any, or from any relative or county that would have been bound to provide for and maintain him elsewhere.

Revision of
1877, p. 623,
§ 110.
Proceedings
in case of per-
sons acquit-
ted of crime
on ground of
insanity.

70. If any person in confinement, under indictment or for want of bail for good behavior, or for keeping the peace or appearing as a witness, or in consequence of any summary conviction, or by order of any justice, or under any other than civil process, shall appear to be insane, the judge of the circuit court of the county where he is confined shall institute a careful investigation, call a respectable physician and other credible witnesses, invite the prosecutor of the pleas to aid in the examination, and, if he shall deem it necessary, call a jury, and for that purpose is fully empowered to compel the attendance of witnesses and jurors; and if it be satisfactorily proved that he is insane, said judge may discharge him from imprisonment, and order his safe custody and removal to the asylum, as prescribed by the rules and regulations aforesaid, where he shall remain until restored to his right mind; and then, if the said judge shall have so directed, the superintendent shall inform the said judge and the county clerk and prosecutor of the pleas thereof, whereupon he shall be remanded to prison, and criminal proceedings be resumed, or otherwise discharged; the provisions of the last preceding section, requiring the county to defray the expenses of a patient sent to the asylum, shall be equally applicable to similar expenses arising under this section and the one next following.

Ibid p. 623,
§ 111.
Proceedings
in case of in-
sane persons
in confine-
ment.

71. Persons charged with misdemeanors, and acquitted on the ground of insanity, may be kept in custody and sent to the asylum, prescribed by said rules and regulations, in the same way as persons charged with crimes.

Ibid p. 626,
§ 112.
On acquittal
for misdemea-
nors on
grounds of
insanity.

72. A patient of the criminal class may be discharged by order of one of the justices of the supreme court, if, upon due investigation, it shall appear safe, legal and right to make such order.

Ibid p. 627,
§ 120.
Discharge of
criminal
patients.

73. No idiot or lunatic during the time of his or her lunacy, shall be or stand committed or detained in prison for want of bail, or his or her body taken in execution in any civil action, or in any action for a penalty; and in case any idiot or lunatic shall be arrested and detained in custody in any civil suit, contrary to the true intent and meaning of this act, he or she shall be discharged, on motion, by the court out of which the process issued, on which he or she is so held in custody, or upon a writ of habeas corpus issuing out of the court of chancery or the supreme court, and allowed by the chancellor or one of the justices of the supreme court, returnable forthwith before the chancellor or any one of the justices of the supreme court.

Ibid p. 606,
§ 20.
Idiot or luna-
tic not to be
imprisoned.

NEW MEXICO.

CARE OF INSANE.

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Commission of lunacy, how issued. 2. Form and power of commission. 3. When to issue. 4. Decree of court. 5. Commission to direct venire to sheriff 6. Investigation of indigence. 7. Costs, on groundless application, to be borne by applicant. 8. Fees of commissioners and sheriff. 9. Person aggrieved may traverse inquisition. 10. Temporary commitment to custody, and care of estate. 11. Committee of person and estate to be appointed. 12. Finding of committee to apply throughout territory. 13. Non-resident committee not to interfere with person or estate. 14. Inquisition out of territory to be evidence of insanity. | <ol style="list-style-type: none"> 15. Inventories, filed by committee. 16. Care and support by committee. 17. On failure of income, sale of personalty and realty. 18. Decree of sale, and proceedings. 19. Proceedings when real estate is in another country. 20. Return of sale by committee. 21. Money of lunatic to be invested. |
|---|---|

CRIMINAL INSANE.

22. Exemption from arrest and imprisonment on civil process.
23. Jailer to report insane inmates, and proceedings thereupon.
24. Clerk to certify proceedings.
25. Hearing and examination.
26. Non-accountability to law, investigation of insanity.
27. Indigent insane, supported by county.
28. Compensation of committee fixed by court, and how paid.

1. It shall be lawful for any district judge in this territory to issue a commission, in term or vacation time, in the nature of a writ de lunatico inquirendo, to inquire into the lunacy or habitual drunkenness of any person within this territory, or having real or personal estate therein. Such commission shall issue in the county in which such person, who is alleged to be a lunatic or habitual drunkard, shall be or reside for the time being. If such person shall be absent from the territory, the commission shall issue in the county wherein he last had his residence, or in which his property is situated, and shall be executed therein.

General Laws
of 1880, ch. 74,
§ 1.
District Judge
to issue com-
mission in
future of writ
de lunatico
inquirendo.

2. The said commission shall be in the following form, to wit:

Ibid § 2.
Form of com-
mission.

The Territory of New Mexico to
Greeting:

Whereas, we have been informed in our court that ,
of the county of , now a lunatic, * * * and we being

to the party with respect to whom such commission shall be issued, or to some of his near relations or friends, who are not concerned in the application, as the said court shall deem advisable.

5. It shall be lawful for the commissioner or commissioners to direct a venire to the sheriff, requiring him to summon not less than six, nor more than twelve persons upon the inquest, as the circumstances to them may seem to require.

*Ibid § 5.
Commissioners to direct venire to sheriff.*

6. If the court shall be of opinion that the person, with respect to whom the proceedings are instituted, has no estate, or not sufficient to justify the expense of a commission, and the proceedings under it, the judge thereof, in person, shall hold said commission during the term of the court, and shall direct an inquest to be impaneled from the jurors attending said court, and which proceedings shall have the like force and effect as an inquisition held by commissioners as aforesaid.

*Ibid § 6.
When person has no estate.*

7. If upon such inquisition it shall appear that said party, with respect to whom the proceedings were had, is not a lunatic * * *, and it shall appear to the judge or commission holding such inquisition that there was not probable cause for such application, the same shall be certified on such inquisition, and thereupon the party making such application shall be liable for the costs of said proceedings, and the clerk of the court is hereby empowered to issue execution for the same.

*Ibid § 7.
When no ground for application, party making it to pay the cost.*

8. Every such commissioner shall receive two dollars per diem for his services, and the persons impaneled upon the inquest one dollar per diem for their services. The sheriff shall receive fifty cents for serving process on each juror on the inquisition, with the usual mileage.

*Ibid § 8.
Fees.*

9. Every person aggrieved by any inquisition as aforesaid, may traverse the same upon, or after, return of the same, and proceed to trial thereon before a jury, and have like remedy and advantage as in other cases upon untrue inquisitions.

*Ibid § 9.
Person aggrieved by inquisition may traverse the same.*

10. It shall be lawful for the court, after the return of the inquisition as aforesaid, notwithstanding any traverse of the same that may be pending, to make

*Ibid § 10.
Court to make orders for care of person.*

such orders touching the care and custody of the person, and the management and safe keeping of the estate of any person, so found to be a lunatic, * * * as they shall think necessary and proper.

11. On the return of any inquisition as aforesaid, finding that the person therein named is a lunatic * * * it shall be lawful for the court to commit the custody and care of the person or estate, or of both, of such lunatic, * * * to such person or persons as they shall deem most suitable and proper. Before said person can perform any act, as committee of the person and estate, or of both, or either, of such lunatic, * * * he shall give security in such sum as the court shall direct, with condition for the faithful discharge of the duties of his trust, and to render a true account of all property and funds that may come into his hands.

*Ibid § 11.
Court to ap-
point commit-
tee.*

12. The finding of a person to be a lunatic * * * as aforesaid shall have the same authority and like effect in each and every county in the territory, as that in which the proceedings were had.

*Ibid § 12.
Finding to ap-
ply to all coun-
ties in ter-
ritory.*

13. The appointment of any committee, guardian or trustee, by any authority outside of this territory, shall not authorize the person so appointed to control the person or estate of any lunatic * * * resident within this territory, or to interfere with the real estate, situate within this territory, of any lunatic * * * , whether resident within this territory or otherwise.

*Ibid § 13.
Appointments
of other au-
thorities not
to affect terri-
tory.*

14. In the case of a person residing out of this territory, and duly found to be a lunatic, * * * according to the laws of the place in which he shall reside, it shall be lawful for the district court of any county of this territory to admit copies of the proceedings in such cases, duly authenticated, as sufficient proof for the appointment of a committee of the person or estate of such person for this territory.

*Ibid § 14.
Care of per-
son residing
outside of ter-
ritory.*

15. It shall be the duty of every such committee, within thirty days after he shall have assumed the duties of his trust, to file in the clerk's office a true and perfect inventory of the personal property of said lunatic * * * that may have come to his hands, with a statement of the real estate that has come to his possession or knowledge; and within thirty days after any other real or personal estate shall

*Ibid § 15.
Duty of com-
mittee.*

have come to his possession or knowledge, he shall file a like inventory in the clerk's office.

16. The committee of said person found to be a lunatic, * * * shall have the management and control of his person and estate, and shall from time to time apply so much thereof as may be necessary for the support and maintenance of himself and family, and for the education of his minor children.

*Ibid § 16.
Same.*

17. If the income of the estate of such person is not sufficient for the purpose mentioned, he may apply such a portion of the principal of the personal estate of said lunatic, * * * as may be required, under the direction of the court. And if the personal estate of said lunatic * * * shall not be sufficient, said committee shall, in such manner as the court may direct, sell or mortgage such portion of his real estate as may be deemed necessary. But before any application shall be made to the court for the sale or mortgage of real estate of said lunatic * * *, due notice of such intended application shall be given to the wife, if any, or the next of kin of said lunatic * * *. And if it shall be deemed necessary, the court shall, before awarding such order of sale or mortgage, appoint an auditor to investigate the condition of the affairs of said lunatic * * *, who shall report upon the expediency of awarding said order of sale or mortgage, and the amount necessary to be raised.

*Ibid § 17.
When income
of estate in-
sufficient.*

18. Every order for the sale of real estate as aforesaid, shall specify the property to be sold, the notice of sale to be given by the committee, the terms of sale, the amount of security to be given by the committee, and the day on which the order of sale is to be returned; and every order for the mortgage of real estate as aforesaid shall specify the amount to be raised by mortgage, the property to be mortgaged, the rate of interest to be paid, the amount of security to be given by the committee, and the day on which the order is to be returned.

*Ibid § 18.
Order to spe-
cify property
to be sold.*

19. When the real estate of such person is situated in another county, or counties, or in the same and another county or counties, and the district court aforesaid shall be satisfied of the expediency of a sale or mortgage of a part of said real estate not within their jurisdiction,

*Ibid § 19.
When real es-
tate is in
another
county.*

it shall be lawful for such court to make an order authorizing such committee to raise so much money as the said court may think necessary, from real estate situate in such county as they may designate; and thereupon it shall be lawful for the district court of the county wherein the real estate so designated is situate, upon the petition of such committee, to make an order for the sale or mortgage of such part of said real estate as they shall think expedient and requisite to raise the amount specified.

Ibid § 20.
Committee to
make return
to district
court. 20. The committee shall make return to the district court of the county in which the land is situate, and in such manner, and at such time, as the order of sale shall specify; but no sale or mortgage of said real estate shall be confirmed until the committee shall give security, to the satisfaction of the court, for the faithful application of the proceeds of such sale or mortgage. On the return and confirmation of said sale or mortgages as aforesaid the committee shall execute such deed of sale or mortgage, as may be, according to the terms of the contract, which deed shall convey or mortgage, as the case may be, all the right, title and interest of the lunatic * * *, according to the terms of the contract aforesaid. If the committee should die, or from any cause become incapable of executing such deed, the court shall direct the clerk thereof, on the petition of the purchaser or mortgagee, to execute and deliver the necessary deed or mortgage to said purchaser or mortgagee, on his paying the money into court, and otherwise complying with the terms of the contract, and the deed or mortgage so executed by the clerk shall be as valid and effectual, to all intents and purposes, as though the same had been executed by the said committee. If a new committee shall have been appointed before said deed or mortgage shall have been executed, the court shall direct said new committee to execute and deliver to the purchaser or mortgagee the requisite deed; and the like proceedings shall be had if any committee shall refuse to execute said deed.

Ibid § 21.
Committee to
invest money. 21. It shall be lawful for the committee aforesaid under the direction of the court, to invest the money of said lunatic * * * in such manner as shall be approved by the court, and if the investment be bona fide made, the

committee shall not be liable for any loss that may arise thereby.

22. If any person, found by inquisition to be a lunatic * * * shall be arrested or imprisoned as aforesaid, in any civil action, it shall be the duty of the court from which the process shall have issued, and of any judge thereof, in vacation, on the application of any person on behalf of the defendant, and a production of a certified copy of the proceedings upon such inquisition, to discharge such defendant from arrest and imprisonment without bail.

*Ibid § 30.
If lunatic
arrested.*

23. If any person arrested or imprisoned as aforesaid, in any civil action, shall appear to be of unsound mind, it shall be the duty of the jailer, or keeper of the prison, forthwith to give notice of the fact to two justices of the peace, who shall, within five days, attend at the prison, and, upon the oath or affirmation of such persons as they shall think fit to examine, proceed to inquire into the state of mind of such prisoner, and if they shall find him to be a lunatic, as was alleged, they shall forthwith make a record of the fact, and certify the same to the clerk of the district court.

*Ibid § 31.
If any person
arrested or
imprisoned,
shall appear
of unsound
mind, pro-
ceedings.*

24. The clerk of the court shall immediately make known such record to the district court, if in session, or to the judge thereof in vacation, and thereupon such court, or such judge shall appoint a day, as soon as may be convenient to him, for hearing any objection to the discharge of such prisoner; and it shall be the duty of the clerk of the court to issue notice in not less than six handbills, and also to the creditor at whose suit said prisoner is detained, at least one week before the time of hearing, that application will be made to the court, or the judge thereof, as the case may be, for the discharge of such prisoner, on the day therein specified.

*Ibid § 32.
Clerk to
notify district
court.*

25. On the day appointed for the hearing, as aforesaid, if it shall appear that due notice shall have been given, the court, or judge, as the case may be, shall proceed to ascertain the state of mind of such prisoner, and if they or he shall be satisfied that such prisoner is of unsound mind, an order shall be made for the discharge of such prisoner from confinement, which shall be entered on record of said court.

*Ibid § 33.
Hearing.*

Provido. *Provided*, that if it shall appear to such court or judge that such person is not in a fit condition of mind to be set at large, it shall be lawful for such court or judge to make an order that he be detained in custody or delivered to his kindred or friends, who are hereby made responsible for his safe keeping, and who shall restrain him from the commission of any offense, by seclusion or otherwise.

26. Whenever it shall appear, upon the trial of any person, charged with any crime or misdemeanor, that such person was insane at the time of the commission of the same, and such person shall be acquitted, the jury shall be required to find, specially, whether such person was insane at the time of the commission of such offense, and to declare whether he was acquitted by them on the ground of such insanity; and if they shall so find and declare, the court, before whom the trial was had, shall have power to order such person to be kept in strict custody, in such place and in such manner as to the said court shall seem fit, at the expense of the county in which the trial was had, so long as such person shall continue to be of unsound mind. The same proceedings shall be had if any person indicted for an offense, shall, upon arraignment, be found to be a lunatic * * *, by a jury lawfully impaneled for the purpose; or if upon the trial of any person so indicted, such person shall appear to the jury charged with such indictment, to be a lunatic, in which case the court shall direct such finding to be recorded, and may proceed as aforesaid.

27. Whenever, under a provision of this act, a person is found, upon inquisition, to be a lunatic * * *, and neither himself nor his friends has sufficient personal or real estate for the maintenance of said lunatic * * *, he shall be supported at the expense of the county of which he is a resident; but the committee of such poor lunatic * * * shall, in all respects, conform to the provisions of this act.

28. The committee, either of the person or estate of a lunatic * * *, shall receive such compensation for his services as the court may order and direct; and whenever said lunatic * * * is supported at the expense of the county of which he is a resident, said county shall also pay the committee for his services.

Ibid § 34.
When person
insane at the
time of com-
mission of
offense.

Ibid § 35.
When lunatic
has no estate,
how sup-
ported.

Ibid § 36.
Compensation
of committee.

NEW YORK.

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2. Term of office.
3. Oath of office, organization.
4. Powers and duties, facilities to be afforded for inspection.
5. Inspection of asylums, reports.
6. State aid, inquiry into application.
7. Interest in contracts forbidden, officers of asylum not to be commissioners.
8. Records, corporate powers.
9. Duties of officers; vacancies
10. Additional members appointed.
11. Inspection of charitable and correctional institutions.
12. On representation of board, attorney-general to investigate.
13. Officers of asylum to furnish information.
14. Statistics and recommendations to be reported.
15. County visitors, penalties for exclusion of.

STATE COMMISSIONER ON LUNACY.

16. Appointment, term of office; to be ex-officio member of state board.
17. Investigation of condition of insane, annual report.
18. Notice of investigation, duty of district attorney.
19. Proceedings on investigation.
20. Official seal.
21. Examination of illegal confinement or cruelty; witnesses.
22. Annual report of keepers of insane poor.
23. Penalties for neglect to report.

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25. Powers and duties of managers.
26. Superintendent and other officers.
27. Special pathologist.
28. Salaries fixed by managers, limit.
29. Salaries, warrants.
30. Managers may hold property in trust.
31. Oath of office.

32. By-laws and regulations.
33. Superintendent, powers and duties, how performed when absent.
34. Exemption from militia, road and jury service.
35. Records of board of managers.
36. Inspection by managers, reports.
37. Resident officers to admit manager and exhibit records.
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39. May recover for support of insane.
40. May institute actions for recovery of moneys.
41. Steward, duties.
42. Notice of completion of asylum, circular to be published.
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51. Statements of expenses, verification and payment.
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58. Supreme court, powers of, not abridged.
59. Definition of terms.

WILLARD ASYLUM.

60. Establishment, board of trustees, appointment, term of office.
61. Trustees, powers and duties.
62. Superintendent and other officers, appointment, salaries.

63. Officers, powers and duties.
64. Admitted patients supplied with clothing.
65. Support, charged to county.
66. Support, remedies of counties.
67. Trustees to receive no compensation.
68. Purchases, vouchers to be taken.
69. Chronic insane paupers sent to Willard asylum.
70. Chronic insane, when cared for within county.
71. Discharge, by trustees.

HUDSON RIVER STATE HOSPITAL.

72. Establishment, board of managers.
73. Powers and duties, like those of trustees of Utica asylum.
74. Superintendent and other officers.
75. Salaries, limit of.
76. Notice of completion, transfer of insane from Utica asylum.
77. Hudson river hospital district.
78. Interest in contracts forbidden.
79. Managers, reports.
80. Plans for asylum.

BUFFALO STATE ASYLUM.

81. Establishment, board of managers.
82. Vacancies how filled.
83. Managers, powers and duties like those of trustees of Utica asylum.
84. Superintendent and other officers, appointment, residence.
85. Salaries of officers, limit of.
86. Plans and specifications.
87. Interest in contracts forbidden.
88. Managers, reports.
89. Capacity of asylum.

HOMOEOPATHIC ASYLUM AT MIDDLETOWN.

90. Establishment, board of trustees, appointment, qualifications, homoeopathic treatment.
91. Vacancies how filled.
92. Interest in purchases forbidden.
93. Trustees, powers and duties.
94. Vacancy, when presumed.
95. Trustees, annual meeting.
96. By-laws and regulations.
97. Superintendent and other officers; appointment, salaries.
98. Charges for care and treatment.
99. Accounts submitted to comptroller.
100. Treasurer, bond of.

STATE ASYLUM FOR INSANE CRIMINALS AT AUBURN.

101. Title of asylum.
102. Superintendent, appointment.

103. Residence, salary.
104. Powers and duties.
105. Other officers, compensation.
106. Insane female convicts at Sing Sing, transferred to asylum.
107. Superintendent, bond.
108. Monthly estimate of expenses.
109. Rules and regulations, powers of inspectors of prison.
110. Insane convicts, examination and transfer.
111. Disposition of convicts on expiration of sentence.
112. Retention of convicts on expiration of sentence.
113. Insane convicts on recovery remanded to prison.
114. Certificate of conviction when filed.
115. Physician, expenses of to be paid.
116. Support of patient, recovery of.

BINGHAMTON ASYLUM FOR CHRONIC INSANE.

117. Establishment, board of trustees, appointment, vacancies.
118. Additional trustees appointed.
119. Transfer of property to trustees.
120. Organization of board.
121. Inventory of transferred property.
122. Alteration and repair of building; interest in contracts forbidden.
123. Appropriation for repairs, reports.
124. Trustees, powers and duties.
125. Superintendent and other officers, appointment.
126. Salaries of officers.
127. Oath of office.
128. By-laws and regulations.
129. Superintendent, powers and duties.
130. Treasurer, powers and duties, quarterly statements.
131. Steward, powers and duties.
132. Exemption of officers from militia, road and jury service.
133. Records of trustees.
134. Inspection by trustees, reports.
135. Trustees to receive no compensation.
136. Purchases to be for cash, vouchers.
137. Chronic insane, removal from counties, support of.
138. Discharge of patients; annual inspection of asylums.
139. Removal from asylum, expenses.
140. Support, charged to counties.
141. Expenses finally paid by county.
142. Admitted patients supplied with clothing.
143. Support, limit of charges.
144. Supreme court, powers of not abridged.

PRIVATE ASYLUMS.

- 145. Must be licensed by state commissioner in lunacy.
- 146. Application for license, form, inspection of premises.
- 147. Applications to be accompanied by plan of premises.
- 148. Licenses, power of board of charities to grant and revoke.
- 149. Maintaining a private asylum without license, duty of district attorney.
- 150. Maintaining a private asylum without license, a misdemeanor.

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- 151. Investigation of complaints.
- 152. Fees of witnesses.
- 153. Penalty for disobeying subpoena.
- 154. Statistics of asylum to be filed.
- 155. Reports when to be filed.
- 156. State benevolent institutions defined.
- 157. Commitment to be reported.
- 158. Admission to be reported within ten days.
- 159. Death or discharge to be reported.
- 160. Accounts, itemized statement of.
- 161. Penalty for neglect to report.
- 162. Reports to be filed.
- 163. State charities aid association may inspect any institution.
- 164. Keepers of asylums to furnish facilities for above inspection.
- 165. State charities aid association, annual report.
- 166. Insane soldiers and sailors from Bath Home transferred to asylum.
- 167. Insane from public institutions of New York city, transfer of.
- 168. Policemen for asylums.
- 169. Officers of asylums exempt from militia and jury service.

ADMISSION AND DISCHARGE.

- 170. Regulations for admission, physician's certificate, examination.
- 171. Qualifications of physician, examination by.
- 172. Physician of asylum, not to certify.
- 173. Records of admission.
- 174. Commitment by county officers.
- 175. Information to superintendent, warrant of commitment.
- 176. Temporary confinement.
- 177. Not to be committed as disorderly, nor confined with criminals.
- 178. Dangerous insane committed to asylum after ten days.
- 179. Illegal confinement, penalties.
- 180. Appeal, investigation.
- 181. Support of indigent insane.

- 182. Proceedings to compel relatives to provide support.
- 183. Indigent insane, examination, judge's certificate.
- 184. Indigent insane, when supported by county.
- 185. Expenses of commitment and support, how borne.
- 186. Expenses, recovery of, from guardians and relatives.
- 187. Courts, powers not abridged.
- 188. County superintendent, powers of.
- 189. Support and commitment by guardians.
- 190. Inmates of almshouse transferred.
- 191. Discharge, regulations for.
- 192. Illegal confinement, cruelty and neglect, penalties for.

CRIMINAL INSANE.

- 193. Non-accountability to law.
- 194. Insane, when excused from accountability.
- 195. When indicted for felony, commission of lunacy, commitment.
- 196. When under sentence of death, commitment by governor, on recovery remanded to custody.
- 197. Commission of lunacy, expenses.
- 198. Removal to Auburn asylum.
- 199. Insane convicts transferred.
- 200. Support, expenses, how borne.
- 201. When confined under criminal charge investigation, commitment; on recovery remanded.
- 202. Insane confined on civil process, like provisions for.
- 203. Insane acquitted of misdemeanors, committed to Auburn asylum.
- 204. Expenses of commitment.
- 205. Plea of insanity, when offered, commission of lunacy.
- 206. Fact of insanity to be stated in verdict of acquittal.
- 207. Expenses of commitment of insane under indictment.
- 208. On recovery, notice to state commissioners, examination.
- 209. Plea of insanity on arraignment.
- 210. Jury to be instructed to state fact of insanity in verdict.
- 211. Suspension of judgment, investigation of insanity; on recovery, proceedings resumed.
- 212. Commission of lunacy, proceedings.
- 213. Suspension of trial or judgment.
- 214. Commitment exonerates bail.
- 215. On recovery remanded to custody.
- 216. Expenses of commitment.
- 217. Insane after sentence of death.
- 218. District attorney, duties of.
- 219. Stay of execution, during insanity.
- 220. On recovery, warrant of execution.

STATE BOARD OF CHARITIES.

1. Within thirty days after the passage of this act, the governor, by and with the consent of the senate, shall appoint eight persons, one residing in each judicial district of the state, to be called and known as the board of state commissioners of public charities.

*E. S. of N. Y.,
1882, Banks &
Bros., p. 1883.
Laws 1887,
ch. 951, §1.
Number of
commis's'n's.*

2. One of the persons so appointed shall hold his office for one year, one for two years, one for three years, one for four years, one for five years, one for six years, one for seven years and one for eight years, as indicated by the governor on making the nominations; and all appointments thereafter, except to fill vacancies, shall be made for eight years.

*Ibid § 2.
Terms of
office.*

3. Before entering upon their duties, the said commissioners shall respectively take and subscribe to the constitutional oath required of other state officers, which shall be filed in the office of the secretary of state, who is hereby authorized and directed to administer such oath. The said commissioners shall have power to elect a president out of its own number, and such other officers and agents as it may deem proper, and to adopt such by-laws and regulations for the transaction of its business and the management of its affairs as it may consider expedient.

*Ibid § 3.
Oath of office.*

4. The said commissioners shall have full power at all times to look into and examine the condition of the several institutions which they may be authorized by this act to visit, financially or otherwise; to inquire and examine into their methods of instruction, and the government and management of their inmates; the official conduct of trustees, directors and other officers and employes of the same; the condition of the buildings, grounds and other property connected therewith, and into all other matters pertaining to their usefulness and good management; and for these purposes they shall have free access to the grounds, buildings and all books and papers relating to said institutions; and all persons now or hereafter in any manner connected with the same are hereby directed and required to give such information, and afford such facilities for inspection, as the said commissioners may require; and any neglect or refusal, on the part of any officer or person connected with such institution, to comply with the requirements of this section, shall subject the offender to a penalty of

*Ibid § 4.
Powers and
duties.*

two hundred and fifty dollars, to be sued for and collected by the said commissioners, in their name of office.

5. The said commissioners, or some one of them, are hereby authorized and required, at least once in each year, and as much oftener as they may deem necessary, to visit all the charitable and correctional institutions of the state, excepting prisons, receiving state aid, and ascertain whether the moneys appropriated for their aid are or have been economically and judiciously expended; whether the objects of the several institutions are accomplished; whether the laws in relation to them are fully complied with; whether all parts of the state are equally benefited by said institutions, and the various other matters referred to in the fourth section of this act; and report in writing to the legislature, at the opening of each annual session of the same, the result of their investigations, together with such other information and recommendations as they may deem proper.

*Ibid § 5.
Charitable
institutions;
visitation of
commission-
ers; its
objects.*

6. Whenever any charitable or correctional institutions, subject to the inspection herein provided for, require state aid for any purpose other than their usual ex- penses, the said commissioners, or some or one of them, shall inquire carefully and fully into the ground of such want, the purpose or purposes for which it is proposed to use the same, the amount which will be required to accomplish the desired object, and into any other matters connected therewith; and in the annual report of each year they shall give the result of such inquiries, together with their own opinions and conclusions relating to the whole subject.

*Ibid § 7.
State aid,
inquiry into.*

7. No member of the board of said commissioners shall be, directly or indirectly, interested in any contract for building, repairing or furnishing any of the institutions which by this act they are authorized to visit and inspect, nor shall any trustee or other officers of any of the institutions embraced in this act be eligible to the office of commissioner hereby created.

*Ibid § 14.
Not to be
interested in
contracts.*

8. The commissioners now in office, appointed pursuant to the act entitled "An act to provide for the appointment of a board of commissioners of public charities and defining their duties and powers," passed May twenty-third, eighteen hundred and sixty-seven, and

*R. S., p. 1886,
L. 1873, ch.
571, § 1.
The state
board of char-
ities.*

their successors to be hereafter appointed, shall constitute a board to be called "the state board of charities," and such board and commissioners shall have the powers conferred by said law and all amendments thereof, together with such further powers and duties as are hereinafter mentioned; and all provisions of said laws not inconsistent herewith shall apply to said board and to the said commissioners respectively. Such a board shall cause a record to be kept of its proceedings by its secretary or other proper officer. It shall have power to make and use an official seal and alter the name at pleasure, and its proceedings and copies of all papers and documents in its possession or custody may be authenticated in the usual form, under its official seal and the signature of its president and secretary, which may be used as evidence in all courts and places in this state, in like manner as similar certificates by the secretary of state or any other public officer.

9. Such board may, by its orders, from time to time, define the duties of its officers, and regulate the discharge of its functions; and shall, also, provide for the holding of, at least, four meetings during each year, which shall be public. Six members of the board, regularly convened, shall constitute a quorum. The failure, on the part of any commissioner appointed as aforesaid, to attend any three successive public meetings of the board above provided for, during any calendar year, may be treated by the governor as a resignation by such non-attending commissioner, and the vacancy be filled; and the annual reports of said board shall give the names of each commissioner present at each of the said public meetings of the board.

10. One additional member of said board, who shall reside in the county of Kings, and two who shall reside in the county of New York, shall be appointed for the term of eight years, in the same manner as is provided in respect to the present commissioners.

11. The said board or any one or more of said commissioners are hereby authorized, whenever they may deem it expedient, to visit and inspect any charitable, eleemosynary, correctional or reformatory institution in this state, excepting prisons, whether receiving state aid or maintained by municipalities or otherwise, and, also, to visit

Ibid § 2.
Duties of officers, etc.; quorum; failure to attend meetings & resignation; vacancies, how filled.

Ibid § 3.
Residence.

Ibid § 4.
Visitations.

and inspect any incorporated or private asylums, institutions, homes or retreats, licensed for the detention, treatment and care of the insane, or persons of unsound mind, as herein-after provided for.

12. If, in the opinion of said board, or any three members thereof, any matter in regard to the management or affairs of any institution, subject to the visitation of said board, or to any inmate of any such institution, or person in any way connected therewith, requires legal investigation or action of any kind, notice thereof may be given by the board or any three members thereof to the attorney-general; and it shall be his duty thereupon to make inquiry and take such proceedings in the premises as he may deem necessary and proper, and to report his action and the results thereof to the said board without delay.

*Ibid § 5.
Attorney general to investigate affairs of institution.*

13. Said board shall have authority to require from the managers and from the officers in charge of any institution it is authorized to visit, any information which said board may require in the discharge of its duties, and may prepare regulations according to which and provide blanks upon which such information shall be furnished by any such officer and managers in a clear, uniform and prompt manner, for use by such board.

*Ibid § 6.
Information from officers in charge.*

14. The said board shall be authorized to collect (and as far as it may think advantageous to embody in its annual reports) such information, both in this state and elsewhere, as it may deem proper, relating to the best manner of dealing with those who require assistance from the public funds, or who receive aid from private charity; and to make such suggestions, from time to time, as to any legislation or action which may be desirable in regard thereto. The said board may also, from time to time, in its reports to the legislature, present such views in regard to the best method of caring for the pauper and destitute children distributed through the various institutions of this state, or are without the instruction and guidance which the public welfare demands; and, also, to furnish in tabulated statements, as nearly as possible, the numbers, sex, age and nativity of those in this state, and in the several counties thereof, which are in any way receiving the aid of public or private organized charity, with any other particulars they may deem proper.

*Ibid § 7.
Statistics.*

15. The said board shall have power, by a resolution to be entered on its minutes, subject to such terms and regulations as it may prescribe, to designate three or more suitable persons in any county to act as visitors, in said county, of the several poor-houses and other institutions therein, subject to the visitation of the board, in aid of and as representatives of said board, except such institutions as have a board of managers appointed by the state; and all officers and others in charge of such institutions shall admit to said institutions all such persons so designated, upon a production of a copy of such resolution, certified by the president or secretary of said board, to visit, examine and inspect the grounds and buildings of every institution, and every part thereof, and all its hospitals and other arrangements, and to have free access to all its inmates: Any officer, superintendent or person in charge of any such institution, who shall refuse to admit any person so designated, or shall refuse to give said visitors all requisite facilities for the examination and inspection as herein provided for, shall be subject to a penalty of two hundred and fifty dollars for each such refusal, which penalty may be sued for and recovered in the name of the people of the state, by the attorney-general, and the sum so recovered shall be paid into the treasury of this state.

Ibid § 8.
County visitors; penalty for refusal to admit county visitors.

STATE COMMISSIONER IN LUNACY.

16. The governor shall nominate and by and with the advice and consent of the senate, appoint an experienced and competent physician, who shall be designated as the state commissioner in lunacy, who shall hold his office for five years and receive an annual salary of four thousand dollars and traveling and other incidental expenses not to exceed one thousand dollars, and a sum not to exceed two hundred dollars to pay office rent and fuel, to be paid on presentation of vouchers to the comptroller.

R. S., p. 1922,
L. 1874,
ch. 446, tit. 10,
§ 1.
Commissioner
in lunacy.

* * * ; And who [commissioner] shall ex-officio be a member of the state board of charities, and shall make full report of all his official acts and visitations to the said board, from time to time, under such regulations as the said board may prescribe. The said board shall furnish such assistance as the

R. S., p. 1887,
L. 1873,
ch. 571 § 13.
Commissioner
in lunacy to
be a member
of state board
of charities.
His reports.

said commissioner may, in their opinion, require to aid him in the proper and efficient discharge of the duties of his office.

17. It shall be the duty of such commissioner to examine into and report annually to the legislature on or before the fifth day of January the condition of the insane and idiotic in this state, and the management and conduct of the asylums, public and private, and other institutions for their care and treatment, and it shall be the duty of the officers and others respectively in charge thereof to give such commissioners at all times free access, whether in person or by written communication, to the insane, and full information concerning them and their treatment therein.

R. S., p. 1922,
L. 1874,
ch. 446, tit. 10,
§ 2.
Duties.

18. Whenever the said commissioner shall undertake any investigation into the general management and administration of any asylum, institution or establishment, public or private, for the custody of the insane, he shall give due notice thereof to the district attorney of the county in which such asylum or institution is situated, and it shall, thereupon, be the duty of such district attorney to appear at such investigation in behalf of the people, and to examine all witnesses who may be in attendance thereat.

R. S., p. 1926,
L. 1878, ch.
47, § 2.
Notice of in-
vestigation of
asylums, etc.;
duty of dis-
trict attorney.

19. The duties of said commissioner and those of said board in regard to the insane shall be performed, as far as practicable, so as not to prejudice the established and reasonable regulations of such asylums and institutions aforesaid; and it shall be the duty of the officers and others respectively in charge thereof to give the members of said board and such commissioner at all times free access to and full information concerning the insane and their treatment therein. It shall also be the duty of such commissioner, under the direction of said board, to inquire and report, from time to time, as far as he may be able, the results of the treatment of the insane of other states and countries, together with such particulars pertaining thereto as he may deem proper, or the said board may require; and he shall perform such other duties as the board may, from time to time, prescribe.

R. S., p. 1888,
L. 1873,
ch. 471, § 14.
Duty of com-
missioner;
witnesses, etc.

* * * * *

The said board of commissioners may, in their report, from time to time, to the legislature, suggest any improvements they

think desirable for the care and treatment of the insane, with such facts and information pertaining thereto as they may deem expedient and proper, and such report shall be made annually on or before the fifteenth day of January.

20. The said commissioner shall have power to make and use an official seal, and all copies of papers and documents in his possession and custody may be authenticated in the usual form under his official seal and signature, and used as evidence in all courts and places in this state, in like manner as similar certificates emanating from any other public officer.

21. The said commissioner is hereby empowered to issue compulsory process for the attendance of witnesses and the production of papers, to administer oaths, and examine persons under oath, and to exercise the same powers as belong to referees appointed by the supreme court, in all cases where, from evidence laid before him, there is reason to believe that any person is wrongfully deprived of his liberty, or is cruelly, negligently or improperly treated in any asylum, institution or establishment, public or private, for the custody of the insane; or whenever there is inadequate provision made for their skilful medical care, proper supervision and safe keeping; and if the same shall be proved to his satisfaction, he is further empowered to issue an order in the name of the people of the state, and under his official hand and seal, directed to the superintendent or managers of such institution requiring them to modify such treatment or apply such remedy or both as shall therein be specified. And in case such order is disobeyed or negligently executed, the commissioner may, and it shall be his duty to present such order with a statement of the facts duly verified upon which it was made to a justice of the supreme court, who may thereupon by order require such superintendent or manager to show cause before such or some other justice of the supreme court at a place in the judicial district where such asylum, institution or establishment is situated, and at a time specified in such order not less than two days after the service thereof, why an order should not be made directing performance of such order of the commissioner, and on failure to so show cause, the said justice shall make such order, and for any dis-

R. S., p. 1922,
L. 1874,
ch. 448, tit. 10,
§ 3.
Official seal,
copies of pa-
pers, etc.

Ibid § 4.
His powers
and duties as
to persons de-
prived of
liberty, etc.

obedience of any order made pursuant to the provisions of this section, the same proceedings may be taken to compel performance thereof, or to punish for contempt for such disobedience as may be had for such purposes in civil actions.

22. The superintendent, or keeper of every county poorhouse, city almshouse, or other asylum where insane paupers are kept, shall, on or before the fifteenth day of November, in each and every year, report to the state commissioner in lunacy the numbers of male and female insane, idiots and epileptics in his custody on the first day of November last past, together with a statistical exhibit of the number of admissions, discharges, and deaths that have occurred within the past year among that class of persons, and the average weekly cost of their maintenance. He shall also state the actual condition of those discharged and the causes of death in those dying within the institution.

*Ibid § 5.
Keepers of
county poor-
houses, etc.,
to report an-
nually to
commissioner
of lunacy.*

23. Any superintendent or keeper of a county poorhouse, city almshouse or other asylum where insane paupers are kept, who shall neglect to report as above recited shall be guilty of a misdemeanor, and on conviction be subject to a fine of not less than fifty dollars nor more than two hundred and fifty dollars, and it shall be the duty of the district attorney of the proper county to proceed against such offenders according to law.

*Ibid § 6
Penalty for
neglect.*

UTICA ASYLUM.

24. There is established at the city of Utica, the state lunatic asylum under the control of nine managers, who shall hold their offices for three years, and until others are appointed in their stead, subject to being removed at any time by the senate, upon the recommendation of the governor. Their successors shall be appointed by the senate upon the nomination of the governor, and shall hold their offices for three years and until others are appointed in their stead, and subject to be removed in the manner aforesaid. The government of the state lunatic asylum shall be vested in the said board of managers, a majority of whom shall reside within five miles of said asylum.

*R. S., p. 1908.
Ibid tit. 3, § 1.
Establish-
ment of state
lunatic asy-
lum at Utica.
Managers:
their term of
office, etc.;
successors,
how appoint-
ed, their term
of office.*

25. Said board shall have the general direction and control of all the property and concerns of the institution not otherwise provided for by law, and shall take charge of its general interests, and see that its great design be carried into effect, and everything done faithfully according to the requirements of the legislature, and the by-laws, rules and regulations of the asylum.

*Ibid § 2.
Board of managers, their powers and duties.*

26. The managers shall appoint a superintendent, who shall be a well educated physician, of experience in the treatment of the insane, and a treasurer, who shall give bonds for the faithful performance of his trust, in such sum and with such sureties as the comptroller of the state shall approve. They shall also appoint, upon the nomination of the superintendent, a steward, four assistant physicians and a matron, all of whom, and the superintendent himself, shall constantly reside in the asylum, and shall be designated the resident officers thereof.

*Ibid § 3.
Appointment of superintendent and other officers; steward, assistant physician and matron.*

27. The managers of said asylum shall have the power, on the nomination of the superintendent of said asylum, to appoint a special pathologist to said asylum, whose salary shall be determined and paid in the same manner as provided by law in relation to the other officers of said asylum.

*Ibid § 4.
Special pathologist; his salary.*

28. The managers shall, from time to time, determine the annual salaries and allowances of the treasurer and resident officers of the asylum, who have been or may hereafter be appointed, subject to the approval of the governor, secretary of state, and the comptroller, provided that such salaries do not exceed in the aggregate fifteen thousand dollars for one year.

*Ibid § 5.
Annual salaries; proviso.*

29. The salaries of the treasurer and resident officers of the asylum shall be paid quarterly, on the first days of January, April, July and October in each year, by the treasurer of the state, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, to the treasurer of the asylum, on his presenting a bill of particulars signed by the steward and certified by the superintendent.

*Ibid § 6.
Salaries payable quarterly: warrant of comptroller.*

30. The managers may take and hold in trust for the state any grant or devise of land, or any donation or be-

*Ibid § 7.
Managers*

quest of money or other personal property, to be applied to the maintenance of insane persons and the general use of the state lunatic asylum. may take by devise or bequest.

31. The superintendent, treasurer and steward of the asylum, before entering upon their respective duties, shall severally take the oath prescribed in the first section of the twelfth article of the constitution of the state; and such oath shall be filed with the clerk of the county of Oneida. Ibid § 8. Official oath.

32. The managers are hereby directed and empowered to establish such by-laws as they may deem necessary and expedient for regulating the appointment and duties of officers, attendants and assistants, for fixing the conditions of admission, support and discharge of patients, and for conducting in a proper manner the business of the institution; also to ordain and enforce a suitable system of rules and regulations for the internal government, discipline and management of the asylum. Ibid § 9. By-laws and regulations.

33. The superintendent shall be the chief executive officer of the asylum. He shall have the general superintendence of the buildings, grounds and farm, together with their furniture, fixtures and stock; and the direction and control of all persons therein, subject to the laws and regulations established by the managers. He shall daily ascertain the condition of all the patients and prescribe their treatment in the manner directed in the by-laws. He shall have the nomination of his co-resident officers, with power to assign them their respective duties, subject to the by-laws; also to appoint, with the managers' approval, such, and so many other officers, assistants and attendants as he may think proper and necessary for the economical and efficient performance of the business of the asylum, and to prescribe their several duties and places, and to fix, with the managers' approval their compensation, and to discharge any of them at his sole direction; but in every case of discharge he shall forthwith record the same, with the reasons, under an appropriate head in one of the books of the asylum. He shall also have power to suspend until the next meeting of the managers, for good and sufficient cause, a resident officer; but in such case he shall forthwith give written notice of the fact, with its causes and circumstances, to one of Ibid § 10. Superintendent, his powers and duties; report; assistant and physician.

the managers whose duty thereupon shall be to call a special meeting of the board to provide for the exigency. He shall also, from time to time, give such orders and instructions as he may judge best calculated to insure good conduct, fidelity and economy in every department of labor and expense; and he is authorized and enjoined to maintain salutary discipline among all who are employed by the institution, and to enforce strict compliance with such instructions, and uniform obedience to all the rules and regulations of the asylum. He shall further cause full and fair accounts and records of all his doings, and of the entire business and operations of the institution, to be kept regularly from day to day, in books provided for that purpose, in the manner and to the extent prescribed in the by-laws; and he shall see that all such accounts and records are fully made up to the last day of November in each year, and that the principal facts and results, with his report thereon, be presented to the managers within thirty days thereafter. The first assistant physician shall perform the duties and be subject to the responsibilities of the superintendent in his sickness or absence.

34. The resident officers of the state lunatic asylum, and all attendants and assistants actually employed therein during the time of such employment, shall be exempt from serving on juries, from all assessments for labor on the highways, and in time of peace, from all service in the militia; and the certificate of the superintendent shall be evidence of the fact of such employment.

35. The managers shall keep in a bound book to be provided for that purpose, a fair and full record of their doings, which shall be open at all times to the inspection of the governor of the state, and of all persons whom he or either house of the legislature may appoint to examine the same.

36. The managers shall maintain an effective inspection of the asylum, for which purpose they shall make frequent visitations, a majority of them once every quarter, and the whole board once a year, at the times and in the manner prescribed in the by-laws. In a book kept by the managers for this purpose, the visiting manager or managers shall note the date of each

Ibid § 11.
Exemption
from jury ser-
vice, etc.

Ibid § 12.
Record of the
doings of
managers.

Ibid § 13.
Inspection
and visitation
by managers,
note of visits,
etc., to be in-
serted in an-
nual report.

visit, the condition of the house, patients, with remarks of commendation or censure, and all the managers present shall sign the same. The general results of the inspections, with suitable hints, shall be inserted in the annual report, detailing the past year's operations and actual state of the asylum, which the managers shall make to the legislature in the month of January in each year, accompanied with the annual reports of the superintendent and treasurer.

37. It shall be the duty of the resident officers to admit any of the managers into every part of the asylum, and to exhibit to him or them, on demand, all the books, papers, accounts and writings belonging to the institution, or pertaining to its business, management, discipline or government; also to furnish copies, abstracts and reports whenever required by the managers.

*Ibid § 14.
Resident officers to admit managers and exhibit books, etc.*

38. The treasurer shall have the custody of all moneys, bonds, notes, mortgages and other securities and obligations belonging to the asylum. He shall open with one of the banks in Utica, to be selected with approbation of the comptroller of the state, an account in his own name, as treasurer of the asylum; and he shall deposit all moneys, immediately upon receiving them, in said bank, and shall draw for the same only for the uses of the asylum and in the manner prescribed in the by-laws, upon the written order of the steward, specifying the object of the payment. He shall keep full and accurate accounts of receipts and payments in the manner directed in the by-laws, and such other accounts as the managers shall prescribe. He shall balance all the accounts on his books annually, on the last day of November, and make a statement of the balances thereon, and an abstract of the receipts and payments of the past year; which he shall within three days deliver to the auditing committee of the managers, who shall compare the same with his books and vouchers, and verify the results by further comparison with the books of the steward, and certify the correctness thereof within the next five days to the managers. He shall further render a quarterly statement of his receipts and payments on the first day of March, June and September in each year to the auditing committee, who shall compare and verify the same as aforesaid, and report the results, duly certified, to the managers,

*Ibid § 15.
Treasurer, his powers and duties.*

who shall cause the same to be recorded in one of the books of the asylum. He shall further render an account of the state of his books, and of the funds and other property in his custody, whenever required to do so by the managers.

39. The treasurer of the state lunatic asylum shall be vested with the same powers, rights and authority which are now by law given either to superintendents of the poor or to overseers of the poor in any county or town of the state, so far as may be necessary for the indemnity and benefit of the asylum, and for the purpose of compelling a relative or committee to defray the expenses of a lunatic's support in the asylum, and reimburse actual disbursements for his necessary clothing and traveling expenses, according to the by-laws of the institution; also for the purpose of coercing the payment of similar charges when due according to said by-laws, from any town, or city, or county that is liable for the support of any lunatic in said asylum.

40. Said treasurer is also authorized to recover for the use of the asylum, any and all sums which may be due, upon any note or bond in his hands belonging to the asylum; also any and all sums which may be charged and due according to the by-laws of the asylum, for the support of any patient therein, or for actual disbursements made in his behalf for necessary clothing and traveling expenses, in an action to be brought in said treasurer's name, as treasurer of the state lunatic asylum, and which shall not abate by his death or removal, against the individual town, city or county, legally liable for the maintenance of said patient, and having neglected to pay the same when demanded by the treasurer; and judgment shall be rendered for such sum as shall be found due, with interest from the time of the demand made aforesaid. Said treasurer may also, upon the receipt of the money due upon any mortgage in his hands belonging to the asylum, execute a release and acknowledge full satisfaction thereof, so that the same may be discharged of record.

41. The steward, under the direction of the superintendent, shall make all purchases for the asylum, and preserve the original bills and receipts thereof, and

*Ibid § 16.
Treasurer,
his powers,
etc., to compel
relatives or
committee to
defray ex-
penses.*

*Ibid § 17.
Treasurer
may recover
moneys due
asylum.*

*Ibid § 18.
Steward, his
duties.*

keep full and accurate accounts of the same, and copies of all orders drawn by himself upon the treasurer; he shall also, under like direction, make contracts in the superintendent's name with the attendants and assistants, and keep and settle their accounts; he shall also keep the accounts for the support of patients and expenses incurred in their behalf, and furnish the treasurer every month with copies of such as full due; he shall make quarterly abstracts of all accounts to the last day of every February, May, August and November, for the treasurer and managers; he shall also be accountable for the careful keeping and economical use of all furniture, stores and other articles provided for the asylum.

42. As soon as the asylum shall be ready for the admission of patients, the managers shall cause notice thereof to be published for two weeks in the state paper and sent to the clerk of every county, who shall transmit copies thereof to the superintendents of the poor of said county by mail. A circular from the superintendent shall accompany said notice to each county clerk and the superintendents of the poor, designating different ways for the counties severally to send to the asylum their respective quotas of patients, and giving all necessary directions respecting admission and support according to the by-laws.

*Ibid § 19.
Notice of
readiness to
receive pa-
tients; circu-
lar from supt.,
its contents.*

43. The superintendent shall make, in a book kept for the purpose, at the time of reception, a minute, with date, of the name, residence, office and occupation of the person by whom and by whose authority each insane person is brought to the asylum, and have all the orders, warrants, requests, certificates, and other papers accompanying him, forthwith copied into the same.

*Ibid § 20.
Superintend-
ent to make
minutes of
name, resi-
dence, etc., of
patients.*

44. No patient shall be admitted into the asylum for a shorter period than six months, except in special cases, as specified in the by-laws.

*Ibid § 21.
Period of ad-
mission.*

45. Whenever there are vacancies in the asylum, the managers may authorize the superintendent to admit, under special agreements, such recent cases as may seek admission under peculiarly afflictive circumstances, or which, in his opinion, promise speedy recovery.

*Ibid § 22.
Patients ad-
mitted under
special
agreement.*

46. All town and county officers sending a patient to the asylum shall, before sending him, see that he is in a

*Ibid § 23.
Condition of*

patients as to
cleanliness. state of perfect bodily cleanliness, and is comfortably clothed and provided with suitable changes of raiment, as prescribed in the by-laws.

47. The managers, upon the superintendent's certificate of complete recovery, may discharge any patient, except one under a criminal charge or liable to be remanded to prison; and they may discharge any patient admitted as "dangerous," or any patient sent to the asylum, by the superintendent or overseers of the poor, or by the (first) judge of a county, upon the superintendent's certificate that he or she is harmless and will probably continue so, and not likely to be improved by the further treatment in the asylum, or when the asylum is full, upon a like certificate that he or she is manifestly incurable and can probably be rendered comfortable at the poorhouse; so that the preference may be given, in the admission of patients, to recent cases, or cases of insanity of not over one year's duration. They may discharge and deliver any patient, except one under criminal charge as aforesaid, to his relatives or friends, who will undertake with good and approved sureties for his peaceable behavior, safe custody and comfortable maintenance, without further public charge. And the bond of such sureties shall be approved by the county judge of the county from which said patient was sent, and filed in the county clerk's office of said county. Upon the presentation of a certified copy thereof, the managers may discharge such patient.

48. A patient of the criminal class may be discharged by order of one of the justices of the supreme court, or a circuit judge, if, upon due investigation, it shall appear safe, legal and right to make such order.

49. No patient shall be discharged without suitable clothing; and, if it cannot be otherwise obtained, the steward shall, upon the order of two managers, furnish it, also money not exceeding twenty dollars, to defray his necessary expenses until he reaches his friends, or can find a chance to earn his subsistence.

50. The managers of the state lunatic asylum shall receive no compensation for their services, but shall receive their actual and reasonable traveling and other expenses, to be paid on the warrant of the comptroller on the rendering of their accounts.

Ibid § 24.
Discharge of
patient; se-
curity from
relatives.

Ibid § 25.
Discharge of
patients of
criminal
classes.

Ibid § 26.
Clothing and
money to be
furnished
discharged
patients.

Ibid § 27.
No compensa-
tion to man-
agers.

51. Hereafter the managers of the state lunatic asylum shall receive no compensation for their services, but shall receive their actual expenses of traveling from their places of residence to and from the asylum to attend the meetings of the managers, and their expenses while attending such meetings. Statements of such expenses, duly verified, shall be presented to the comptroller of the state, and it shall be his duty to approve the same if correct, and state such approval in writing, and in that event, on the presentation of such statement to him, the treasurer of the asylum shall pay the same.

R. S., p. 1926,
L. 1879, ch. 45,
§ 47
Expenses.

52. All purchases for the use of the asylum shall be made for cash, and not on credit or time; every voucher shall be taken, duly filled up at the time it is taken; with every abstract of vouchers for money paid shall be proof on oath that the voucher was filled up and the money paid therefor at the time the voucher was taken; and the managers shall make all needful rules and regulations to enforce the provisions of this section.

R. S., p. 1913,
L. 1874, ch.
446, tit. 3, § 28.
Purchases.

53. The price to be paid for keeping the poor, or any person in indigent circumstances, in the asylum shall be annually fixed by the managers, and shall not exceed the actual cost of support and attendance, exclusive of officers' salaries. The managers may, at their discretion, require payments made quarterly or semi-annually in advance.

Ibid § 29.
Price for
keeping the
poor or indigent.

54. Every insane person supported in the asylum shall be personally liable for his maintenance therein, and for all necessary expenses incurred by the institution in his behalf. And the committee, relative, town, city or county, that would have been bound by law to provide for and support him if he had not been sent to the asylum, shall be liable to pay the expenses of his clothing and maintenance in the asylum, and actual and necessary expenses to and from the same.

Ibid § 30.
Liability of
patient for his
maintenance;
liability of
committee,
relative, etc.

55. The expenses of clothing and maintaining in the asylum a patient who has been received upon the order of any court or officer, shall be paid by the county from which he was sent to the asylum. The treasurer of said county is authorized and directed to pay to the

Ibid § 31.
County to pay
expenses in
certain cases;
county treasurer to pay to
treasurer of
asylum; su-

pervisors to
levy amount,
etc., county
may be reim-
bursed.

treasurer of the asylum the bills for such clothing and maintenance as they shall become due and payable according to the by-laws of the asylum, upon the order of the steward; and the supervisors of said county shall annually levy and raise the amount of such bills, and such further sum as will probably cover all similar bills for one year in advance. Said county, however, shall have the right to require any individual, town, city or county, that is legally liable for the support of such patient, to reimburse the amount of said bills with interest from the day of paying the same.

56. Whenever the managers shall order a patient removed from the asylum to the poorhouse of the county whence he came, the superintendent of the poor of said county shall audit and pay the actual and reasonable expenses of such removal as part of the contingent expenses of said poorhouse. But, if any town or person be legally liable for the support of such patient, the amount of such expenses may be recovered for the use of the county by such superintendents. If such superintendents of the poor neglect or refuse to pay such expenses on demand, the treasurer of the asylum may pay the same and charge the amount to the said county; and the treasurer of the said county is authorized to pay the same, with interest, after thirty days; and the supervisors of the said county shall levy and raise the amount as other county charges.

Ibid § 52.
When supt. of
the poor to
pay expenses
of removal; if
supts of poor
neglects to
pay such ex-
penses, treas-
urer may do
so.

57. Every town or county paying for the support of a lunatic in the asylum, or for his expenses in going to or from the same, shall have the like rights and remedies to recover the amount of such payments, with interest from the time of paying each bill, as if such expenses had been incurred for the support of the same at other places under existing laws.

Ibid § 53.
Rights and
remedies of
town and
county paying
for support.

58. None of the provisions of this act shall restrain or abridge the power and authority of the supreme court of the state over the persons and property of the insane.

Ibid § 54.
Power of su-
preme court.

59. The terms "lunacy," "lunatic" and "insane," as used in this act, shall include every species of insanity and extend to every deranged person, and to all [of] unsound mind other than idiots. The word "oath"

Ibid § 57.
Certain words
and terms
used in this
act, defined.

includes "affirmation," the word "overseer" means "overseer of the poor," and "county superintendent" means "superintendent of the poor;" the word "asylum" and "institution" means "any state lunatic asylum;" a word denoting the singular number is to include one or many; and every word importing the masculine gender only may extend to and include females.

WILLARD ASYLUM.

60. There is established in the town of Ovid and county of Seneca, the Willard asylum for the insane, under the control of eight trustees. The term of office of said trustees is eight years. The said trustees and their successors shall be appointed by the governor, by and with the consent of the senate.

R. S., p. 1914,
Ibid tit. 4, § 1.
Trustees of
the Willard
asylum for
the insane.

61. Said trustees shall have all the rights, privileges and powers, and be subject to the same duties, in said asylum, as are now possessed by and imposed upon the board of managers of the state lunatic asylum at Utica, and shall be subject to removal at any time by the senate upon recommendation of the governor. Said trustees shall also fix the rate per week, not exceeding the actual cost of support and attendance, exclusive of officers' salaries, for the board of patients. It shall further be the duty of said trustees, as portions of said asylum are completed and ready for the reception of the insane, to designate, in a just and equitable manner, and with approval of the governor, the counties from which the chronic pauper insane shall be sent to said asylum, as parts of the room shall be ready, from time to time, for the reception of patients, except as hereinafter provided.

Ibid § 2.
Their rights,
privileges,
powers and
duties; rate
of board;
counties from
which the
insane may
be sent.

62. The managers shall appoint a medical superintendent who shall be a well educated physician of experience in the treatment of the insane, and a treasurer, who shall give bonds for the faithful performance of his trust in such sum and with such sureties, as the comptroller shall approve. They shall also appoint, in their discretion, and upon the nomination of the medical superintendent, a steward and matron, and [seven] assistant physicians, all of whom and the medical superin-

Ibid § 3,
as amended
p. 1923, L. '78,
ch. 86, § 1, and
p. 1933, L. '81,
ch. 190, § 1.
Trustees to
appoint
supt. and
treasurer and
other officers

tendent, shall constantly reside in the asylum or on the premises and such other officers and assistants as may now be allowed by law. They shall also from time to time, with the approval of the governor, comptroller and secretary of state, determine the annual salary and allowances of the before-named officials, the aggregate amount of such salaries not to exceed the sum of ten thousand five hundred dollars in any year.

63. The superintendent, resident officers and treasurer shall be subject to the same duties, and shall have the same rights and powers as are possessed by, and imposed upon, the superintendent, resident officers and treasurer of the state lunatic asylum at Utica.

*Ibid § 4.
Rights,
powers and
duties of
supt., etc.*

64. All town and county officers sending a patient to the asylum shall, upon before sending him, see that he is in a state of perfectly bodily cleanliness, and is comfortably clothed, and provided with suitable changes of raiment as prescribed in the by-laws.

*Ibid § 5.
Town and
county officers
to see that
patient is well
clothed, etc.*

65. The expenses of clothing and maintaining, in the asylum, a patient who has been received upon the order of any court, or officer, shall be paid by the county from which he was sent to the asylum. The treasurer of said county is authorized and directed to pay to the treasurer of the asylum the bills for such clothing and maintenance, as they shall become due and payable, according to the by-laws of the asylum, upon the order of the steward; and the supervisors of said county shall annually, levy and raise the amount of such bills, and such further sums as will probably cover all similar bills for one year in advance. Said county, however, shall have the right to require any individual, town, city or county that is legally liable for the support of such patient, to reimburse the amount of said bills, with interest from the day of paying the same.

*Ibid § 6.
Expenses of
clothing, etc.,
to be paid by
county :
county treasurer
to pay
treasurer of
asylum bills
for clothing,
etc., county
to be reim-
bursed.*

66. Every town or county paying for the support of a lunatic in the asylum, or his expenses in going to or from the same, shall have the like rights and remedies to recover the amount of such payments, with interest from the time of paying each bill, as if such expenses had been incurred for the support of the same, at other places, under existing laws.

*Ibid § 7.
Rights of
towns and
counties.*

67. The managers shall receive no compensation for their services, but shall receive their actual and reasonable traveling and other expenses, to be paid on the warrant of the comptroller, on rendering their accounts.

*Ibid § 8.
Trustees to
receive no
compensation.*

68. In all purchases for the use of the asylum every voucher shall be taken, duly filled up at the time it is taken, with every abstract of vouchers for money paid, and shall be proof on oath that the voucher was filled up and the money paid therefor at the time the voucher was taken; and the managers shall make all needful rules and regulations to enforce the provisions of this section.

*Ibid § 9.
Vouchers to
be verified.*

69. The chronic pauper insane from the poor-houses of the counties shall be sent to the said asylum by the county superintendents of the poor, except from those counties having asylums for the insane, to which they are now authorized to send such insane patients by special legislative enactments, or such counties as have been, or may hereafter be, exempted by the state board of charities. And all the chronic insane pauper patients who may be discharged not recovered from the state lunatic asylums, and who continue a public charge, shall be sent to the asylum for the insane hereby created; and all such patients shall be a charge upon the respective counties from which they are sent.

*Ibid § 10.
Chronic pau-
per insane.*

70. The board of state commissioners of public charities are hereby authorized to hear and determine all applications which may be made to them in writing, by the county superintendents of the poor of the several counties of this state, for exemption from the operation of the tenth section of the act entitled "An act to authorize the establishment of a state asylum for the chronic insane, and for the better care of the insane poor," to be known as "The Willard Asylum for the Insane," passed April eighth, eighteen hundred and sixty-five. And whenever said board on such application shall determine that the buildings and means employed to take care of the chronic pauper insane of such county are sufficient and proper for the time being for such purpose, and shall file the same in the office of the clerk of the county making such application, then and in that case, and until such determina-

*R. S., p 1923.
L. 1871,
ch. 713, § 1.
Chronic in-
sane may be
cared for with-
in county
when there
are suitable
accommodations.*

tion shall be revoked as hereinafter mentioned and provided, the county superintendents of the poor of such county shall be relieved from sending the chronic pauper insane of such county to the Willard asylum for the insane, as now provided by law. Said board may at any time revoke such determination, but such revocation must be made in writing, and filed in the county clerk's office of the county making such application, and notice thereof shall be given in writing to the county superintendents of the poor of such county, and upon the filing of the same the said county superintendents of the poor of such county shall from thenceforward be again subject to the provisions and operations of the said act.

71. The trustees of the Willard asylum for the insane are hereby authorized to appoint a committee of the board of trustees, which committee shall be empowered to discharge patients from said asylum, in the interval between the meetings of said board; such discharge to be granted in the same manner and under the same restrictions, and to have the same effect as if granted by said trustees at a regular meeting of the board of trustees.

R. S., p. 1933,
L. 1881,
ch. 190, § 2.
Discharge,
committee of
trustees for.

HUDSON RIVER HOSPITAL.

72. There is established near the city of Poughkeepsie, the Hudson River state hospital for the insane, under the control of nine managers who are appointed by the senate upon the nomination of the governor, and hold their offices for six years and until others are appointed in their stead, and subject to be removed at any time by the senate upon the recommendation of the governor, and a majority of the said managers shall reside within the county of Dutchess.

R. S., p. 1916,
L. 1874,
ch. 446, tit. 5,
§ 1.
Managers,
number and
mode of ap-
pointment of
Hudson River
State Hospital.

73. The said managers have the rights and powers, and are subject to the same duties, as are now possessed by and imposed upon the managers of the state lunatic asylum at Utica; and the Hudson River state hospital for the insane is organized and governed under the laws organizing and governing the state asylum at Utica, except as may be herein otherwise provided.

Ibid § 2.
Residence;
rights, powers
and duties; or-
ganization and
government.

74. The managers shall appoint a medical superintendent, who shall be a well educated physician of experi-

Ibid § 3.
Managers to

ence in the treatment of the insane, and a treasurer, who shall reside in the city of Poughkeepsie, and give bonds for the faithful performance of his trust in such sum and with such sureties as the comptroller of the state shall approve. They shall also appoint, at their discretion, and upon the nomination of the medical superintendent, a steward and a matron, and such assistant physicians as the necessity of the hospital shall from time to time require, all of whom and the medical superintendent shall constantly reside in the hospital or on the premises, and shall be designated as the "resident officers."

appoint medical superintendent and treasurer; other appointments.

75. The managers shall from time to time, with the approval of the governor, comptroller and secretary of state, determine the annual salaries and allowances to the treasurer and resident officers, the aggregate amount of the said salaries not to exceed the sum of twelve thousand dollars for any one year.

Ibid § 4.
Salaries.

76. As soon as portions of the hospital shall be prepared for the reception of patients, the managers shall cause notice thereof to be published in the state paper and sent to the county clerk, county judge and superintendents of the poor of each of the following counties: Clinton, Essex, Franklin, Warren, Washington, Saratoga, Albany, Rensselaer, Greene, Columbia, Ulster, Dutchess, Orange, Sullivan, Putnam, Rockland, Westchester, New York, Kings, Queens, Suffolk and Richmond. A circular from the medical superintendent shall accompany said notice to each county clerk, county judge and superintendent of the poor, designating the number and class of patients to be received; and when the hospital shall be completed, due notice shall be given as above, so that all patients who may then be in the state lunatic asylum at Utica, chargeable to the above mentioned counties, shall be transferred to the Hudson River state hospital for the insane.

Ibid § 5.
Notice of readiness to receive patients; circular from medical superintendent, transfer of patients from Utica asylum.

77. The counties enumerated in the last section shall constitute the Hudson River state hospital district, and the hospital shall be designated the Hudson River state hospital.

Ibid § 6.
Hudson River State Hospital district.

78. The managers and other officers shall have no interest, direct or indirect, in the furnishing of any building

Ibid § 7.
Managers and

officers not to have interest in contracts.

materials, or in any contracts for the same, or in any contracts for labor in the erection of said hospital.

79. It shall be the duty of the managers to make a detailed report of all the moneys received by them, and of the progress which shall have been made in the erection of said buildings, to the legislature in January of each year, and also to the comptroller, as often and in such manner as the comptroller shall or may, from time to time, require.

Ibid § 8.
Report of managers.

80. The plans and specifications for said hospital shall be upon the basis of accommodating not exceeding five hundred patients at any one time, and shall be approved by the governor, comptroller and secretary of state.

Ibid § 9.
Plans, etc., approval of.

BUFFALO ASYLUM.

81. There is established, in the city of Buffalo, the Buffalo state asylum for the insane, under the control of the managers appointed by the governor by and with the consent of the senate.

R. S., p. 1917,
Ibid, tit. 8, § 1.
Managers of the Buffalo state hospital for the insane.

82. They shall be subject to be removed at any time by the senate, upon the recommendation of the governor. Their successors shall be appointed by the governor, and shall hold their office for six years, and until others are appointed in their stead, and subject to be removed in the manner aforesaid; and, in case of a vacancy in said board, the governor shall appoint, in manner aforesaid, to fill the unexpired term.

Ibid § 2.
Vacancy, how filled.

83. The said managers have all the rights and powers, and are subject to the same duties, as are now possessed by and imposed upon the managers of the state lunatic asylum at Utica; and the Buffalo state asylum for the insane shall be organized and governed under the laws organizing and governing the state asylum at Utica, except as may be herein otherwise provided.

Ibid § 3.
Managers, their rights, powers, and duties.

84. The managers shall appoint a medical superintendent, who shall be a well educated physician of experience in the treatment of the insane, and a treasurer, who shall reside in the city of Buffalo, and give bonds for the faithful performance of his trust, in such sum and with such sureties as the comptroller of the state shall approve. They shall also appoint, at their

Ibid § 4.
Managers to appoint medical superintendent and treasurer; other appointments; officers to reside in hospital.

discretion, and upon the nomination of the medical superintendent, a steward and a matron, and one or more assistant physicians, as the necessities of the hospital shall from time to time require, all of whom, and the medical superintendent, shall constantly reside in the hospital, or on the premises, and shall be designated the resident officers.

85. The managers shall, from time to time, determine the annual salaries and allowances of the treasurer and resident officers, subject to the approval of the governor of the state, secretary of state and the comptroller, provided that such salaries shall not exceed, in the aggregate, ten thousand dollars for any one year.

Ibid § 5.
Salaries.

86. The managers shall procure plans, drawings and specifications for the construction of the hospital and other buildings, and improvement of the grounds, and shall contract for the erection of the buildings in accordance with such plans and specifications, and on such terms as they may deem proper; provided such plans, drawings, specifications, contracts, and the terms thereof, shall be approved by the governor, state engineer and comptroller; and plans further provided, that the managers shall not adopt any for the hospital or other buildings, nor alter nor change the plans adopted, without the assent of the state officers aforesaid.

Ibid § 6.
Plans, drawings, contracts, etc.; approval.

87. The managers and other officers shall have no interest, direct or indirect, in the furnishing of any building materials, or in any contracts for the same, or in any contracts for labor in the erection of said hospital.

Ibid § 7.
Managers and officers not to have an interest in contracts.

88. It shall be the duty of the managers to make a detailed report, of all the moneys received by them, and the progress which shall have been made in the erection of said buildings, to the legislature in January of each year, and also to the comptroller, as often and in such manner as the comptroller shall or may from time to time require.

Ibid § 8.
Report of managers.

89. The plans and specifications for said hospital shall be upon the basis of accommodating not exceeding five hundred patients at any one time.

Ibid § 9.
Basis of plans, etc.

HOMŒOPATHIC ASYLUM.

90. There is established at Middletown, in the county of Orange, a state lunatic asylum for the care and

R. S., p. 1918.
Ibid, tit. 7, § 1.

Trustees of the state homœopathic asylum for the insane at Middletown, number and mode of appointment of; term of office. treatment of the insane upon the principles of medicine known as the homœopathic, by the name of "The State Homœopathic Asylum for the Insane, at Middletown," under the control of twenty-one trustees, appointed by the governor by and with the consent of the senate, and shall be adherents of homœopathy. The trustees shall be subject to removal for cause by the senate, upon the recommendation of the governor. The term of office of said trustees is seven years.

91. Whenever vacancies shall occur in the board of trustees of the state homœopathic asylum for the insane at Middletown, the senate shall appoint, on the nomination of the governor, proper persons to fill such vacancies; and the acceptance of the office of trustee, by the persons thus appointed, shall be a pledge that they will maintain the homœopathic mode of medical treatment in the said asylum.

92. The said trustees shall not for their own private advantage or gain, directly or indirectly, deal or trade in buying or selling any goods, wares merchandise [nor] other property whatsoever, belonging to, or to be used for the said corporation.

93. The financial and other business concerns of said asylum are under the direction of said board of trustees, who shall elect from their number at each annual meeting, a president, a vice-president, a secretary, and a treasurer, who shall hold their offices for one year, or until their successors shall be elected. Seven of said trustees shall constitute a quorum for the transaction of business, and a majority of the number present at a meeting shall be requisite to make any order in the management of the asylum. All other duties, rights and powers, of said trustees shall be the same as those imposed upon the managers of the state lunatic asylum at Utica.

94. Any trustee failing to attend the regular meetings of the board for one year may thereupon, at the option of said board, be deemed to have vacated his office, and a successor may be appointed to fill the same.

95. The trustees shall hold their annual meeting on the third Thursday in June, at the asylum, to receive

R. S., p. 1925,
L. 1876, ch.
121, § 1.
Appointment
to fill vacan-
cies; homœo-
path. treatm't.

R. S., p. 1918,
L. 1876, ch. 446,
tit. 7, § 2.
Trustees not
to deal, etc.

Ibid § 3.
To have direc-
tion of busi-
ness; to ap-
point a presi-
dent, etc.;
quorum, other
duties, etc.; of
trustees.

Ibid § 4.
When trustee
deemed to
have vacated
his office.

Ibid § 5.
Annual meet.

reports of their officers as to the business and affairs of said corporation, and to transact such other business as may be deemed necessary. ing of trustees.

96. The board of trustees of said asylum shall have power to make, constitute, ordain and establish, from time to time, such by-laws, rules and regulations as they shall deem proper for transacting, managing and directing the affairs of said asylum; provided, that such by-laws, rules and regulations do not conflict with this act, or with the constitution and laws of this state or of the United States. Ibid § 6. By-laws; proviso.

97. The board of trustees may appoint a superintending homœopathic physician and assistant physicians, and such other officers and agents of the said corporation as they shall deem necessary, who shall respectively hold and perform the duties pertaining to their offices and agencies during the pleasure of said board, and the said board shall, from time to time, fix the salaries of such superintending physicians, assistant physicians, officers and agents. But the annual salaries of the superintendent, assistant physicians, treasurer, steward and matron shall be approved by the governor, secretary of state and comptroller; *provided* that such salaries shall not exceed in the aggregate eight thousand dollars for any one year. Ibid § 7. Board of trustees may appoint superintending physician, etc.; salaries, approval thereof.

98. The charges to be made by said asylum for the care and treatment of patients shall be such sum only as shall, in the aggregate, be sufficient to defray the current expenses of said asylum. Ibid § 8. Charges for care, etc., of patients.

99. The expenditure of all money appropriated by the state for the erection of said asylum, together with all amounts derived or received from other sources, shall be fully and duly accounted for to the comptroller. Ibid § 9. Account of receipts.

100. The treasurer of said asylum shall give bonds for the faithful performance of his trust in such sum and with such sureties as the comptroller of the state shall approve. Ibid § 10. Bond of treasurer.

AUBURN ASYLUM.

101. The building erected at Auburn for an asylum shall be known and designated as the state asylum for insane criminals, at Auburn. R.S., p. 1919, Ibid tit. 8, § 1. State asylum for insane criminals at Auburn.

102. The state commissioner in lunacy shall appoint a medical superintendent for said asylum who shall be a well educated physician of experience in the treatment of the insane, who shall, under the direction of said inspectors, have charge of said asylum, and shall make all purchases for the support of said asylum, and shall account for all moneys coming to his hands in the same manner as the agent and warden of any of the state prisons are now required by law to do.

Ibid § 2.
Supt. 103. The said medical superintendent shall reside in the building, and shall devote as much of his time as may be necessary to the care and treatment of those confined therein. He shall receive a salary of fifteen hundred dollars per annum, payable monthly, and shall be allowed rations for himself and family, and all necessary fuel and lights for warming and lighting his rooms in said building.

Ibid § 3.
Residence;
salary. 104. The superintendent shall be the chief executive officer of the asylum. He shall have the general superintendence of the buildings and grounds, together with their furniture, fixtures and stock; and the direction and control of all persons therein, subject to such laws and regulations as may be established by the board of inspectors. He shall have the nomination of his co-resident officers, with power to assign them their respective duties, subject to the by-laws aforesaid. Also, to appoint, with the approval of the board, such and so many attendants and employes as he may think proper and necessary for the economical and efficient administration of the affairs of the asylum, and to prescribe their several duties and places, and to discharge any of them at his sole discretion. But in every case of discharge so occurring, he shall forthwith enter the same, with the reasons therefor, under an appropriate head, in one of the record books of the asylum. He shall also have power to suspend, until the next meeting of the board, for good and sufficient cause, any resident officer; but in such case he shall forthwith give written notice of the fact, with its causes and circumstances to said board, whose duty thereupon it shall be to call a special meeting of the board to provide for the exigency. The assistant physician shall perform the duties and be subject to the responsibilities of the superintendent, in his sickness or absence.

105. The other officers and employes in said asylum shall be an assistant physician, who shall also perform the duties of clerk of said asylum; a matron, and not exceeding ten male attendants, for the male department, and four female attendants for the female department, who shall be appointed by the board of prison inspectors, upon the recommendation of the medical superintendent; and the monthly wages of such attendants shall be fixed from time to time by the said board of prison inspectors, not to exceed twenty-five dollars per month each, and the same paid monthly, and said attendants shall reside in, and be boarded at the expense of such asylum.

*Ibid § 5.
Other officers;
compensation.*

106. The inspector of state prisons shall cause any female convict in the state prison at Sing Sing, who now is, or hereafter may become insane, to be removed to and retained in the female department of the state asylum for insane criminals in the manner provided by law. And all the provisions of this act shall apply to the cases of convicts so removed except that whenever any such female convict shall have become restored to reason, she shall be transferred to and again received into the female state prison at Sing Sing.

*Ibid § 6.
Insane female
convicts at
Sing Sing.*

107. The medical superintendent shall file in the office of the comptroller of this state a bond in the penal sum of ten thousand dollars, conditioned for the faithful performance of his duty as such, which bond, before it shall be filed, shall be approved by the board of inspectors; and no medical superintendent shall enter upon the discharge of the duties of said office till such bond so approved shall have been duly filed, as aforesaid.

*Ibid § 7.
Bond of supt.*

108. The superintendent shall estimate monthly, as is now provided by law, and subject to the same restrictions and conditions as in the case of agents and wardens of the state prisons, for all the moneys necessary for the support and maintenance of said asylum, which estimate shall be submitted to and carefully examined by the inspector in charge of the said Auburn prison, who, if he is satisfied that the said estimate is correct, and that the articles named in said estimate are actually needed for the support and maintenance of said asylum, shall certify the same, and on the production of said

*Ibid § 8.
Monthly
estimate.*

estimate, so certified, to the comptroller, he shall draw his warrant on the treasurer for the amount of said estimate, and the treasurer shall pay the amount of said warrant out of any money in the treasury appropriated for the support of the state prisons.

109. The inspectors of state prisons shall adopt such rules and regulations from time to time, as they shall deem proper for the control and management of the said asylum which said rules and regulations shall be approved by the state commissioner in lunacy, and they shall also have power to remove any and all the officers in said asylum for cause, and shall enter such cause in full on the minutes of their proceedings at the asylum. And no officer removed by the said inspectors for cause, shall be reappointed to any position in said asylum.

*Ibid § 9.
Rules and
regulations.*

110. Whenever the physicians of either of the state prisons of this state shall certify to the board of inspectors, or to the inspector in charge, that any convict therein is insane it shall be the duty of such board or of such inspector in charge, to make immediately, a full examination into the condition of such convict, and if satisfied that he is insane the said board of inspectors, or the inspector in charge, shall order the agent or warden of the prison where such convict is confined forthwith to convey said convict to the state asylum for insane criminals, and to deliver him to the superintendent thereof, who is hereby required to receive him into the said asylum, and retain him there until legally discharged.

*Ibid § 10.
When inspectors
to examine
into condition
of convicts.*

111. Whenever any convict in the state asylum for insane criminals, under and by virtue of the provisions of this act, shall continue to be insane at the expiration of the term for which he was sentenced, the board of inspectors upon the superintendent's certificate, that he is harmless and will probably continue so, and that he is not likely to be improved by further treatment in the asylum; or upon a like certificate that he is manifestly incurable, and can probably be rendered comfortable at the county almshouse, may cause such insane convict to be removed at the expense of the state, from said asylum, to the county wherein he was convicted, or to the county of his

*Ibid § 11.
Disposition of
convicts re-
maining in-
sane after
expiration of
sentence.*

former residence, and delivered to and placed under the care of the superintendents of the poor of such county, and the said superintendents are hereby required to receive such insane convict under their charge; they may also discharge and deliver any convict whose sentence has expired, and who is still insane, to his relatives or friends, who will undertake with good sureties to be approved by said superintendent of the state asylum for insane criminals, for his peaceful behavior, safe custody and comfortable maintenance without further public charge.

112. In case the insanity of any convict shall continue after the expiration of his sentence, he shall be retained in said asylum until adjudged a fit subject to be discharged by the state commissioner in lunacy.

*Ibid § 12.
Retention
after term.*

113. Whenever any convict, who shall have been confined in the said asylum as a lunatic, shall have become restored to reason, and the medical superintendent of said asylum shall so certify in writing, he shall be forthwith transferred to the Auburn state prison, and the agent and warden of said prison shall receive said convict into the said prison, and shall, in all respects, treat such convict as if he had been originally sentenced to imprisonment in said prison, though said convict may have been conveyed to the said asylum from either of the other prisons of the state, but any convict received from a penitentiary shall be returned to the same.

*Ibid § 13.
Transfer to
state prison.*

114. Whenever the inspectors of state prisons shall order any convict to be transferred to the asylum for insane criminals, the agent and warden of the prison from which such convict is transferred, shall cause a correct copy of the original certificate of conviction of said convict to be filed in his office, and shall deliver the original certificate to the superintendent of the asylum; and when any such convict shall be transferred to the Auburn prison from such asylum, as hereinbefore provided, the said superintendent shall deliver to the agent and warden of said prison such original certificate, which shall be filed in the clerk's office in said prison.

*Ibid § 14.
Certificate of
conviction.*

115. The physician who shall attend any meeting of the board of inspectors of state prisons, or who shall make any examination of any convict, as hereinbe-

*Ibid § 15.
Pay of phy-
sician.*

fore provided, shall be paid his actual and reasonable traveling expenses in going to and returning from such examination or meeting, on the certificate of the president of the board of inspectors of state prisons, that he has attended such meeting or examination.

116. The superintendent is hereby authorized to recover for the support of any patient therein chargeable under the law to either counties or penitentiaries, in an action to be brought in said superintendent's name as superintendent of the state asylum for insane criminals, and which action shall not abate by reason of his death or removal, against the county or penitentiary for the maintenance of the said patient, and judgment therein shall be rendered for such sums as shall be found due, together with interest from the time of the demand made.

BINGHAMTON ASYLUM.

117. The institution heretofore established, and now known as the New York state inebriate asylum, at Binghamton, is hereby abolished; and all the property and privileges belonging to this state, and now managed and administered by the managers of said inebriate asylum, are hereby transferred and entrusted to the care and management of the Binghamton asylum for the chronic insane, which is hereby established. The governor, by and with the advice and consent of the senate, shall appoint nine citizens of this state as a board of trustees of such asylum for the insane, who shall be divided into three equal classes—the first class to hold office for two years; the second class four years, and the third class six years, from and after the passage of this act, and until their successors are appointed and enter upon the discharge of their duties. The governor is hereby authorized, by and with the advice and consent of the senate, to fill all vacancies hereafter occurring in the said board of trustees, either by reason of the expiration of the term of service, or for any other cause.

118. The governor, by and with the advice and consent of the senate, is hereby authorized to appoint two trustees of the Binghamton asylum for the chronic in-

Ibid § 16.
Action for
support may
be in name of
supt.

R. S. p. 1926,
L. 1879,
ch. 280, § 1.
State inebriate
asylum abol-
ished. Bing-
hamton asy-
lum for
chronic in-
sane; board
of trustees;
vacancies.

R. S. p. 1932,
L. 1880,
ch. 61, § 1.
Governor and

sane, in addition to the number now allowed by law, who shall serve as such for six years from the thirteenth day of May, eighteen hundred and seventy-nine, and until their successors are appointed and enter upon the discharge of their duties. They shall possess all the rights and privileges, and be subject to all the responsibilities, now appertaining to the existing trustees of such asylum.

119. Immediately after the passage of this act, the managers of said inebriate asylum shall begin their preparation to close up the affairs of the same, and shall give free access and opportunity to the agents, mechanics and laborers to be employed by the trustees of said asylum for the chronic insane, to enter upon said property for the purpose of preparing the same for the uses of such insane asylum; and upon the expiration of thirty days from and after the passage of this act, the said managers, their officers, agents, employes, and servants, shall vacate such property, and leave the same to the possession, control and management of the trustees appointed under the first section of this act.

senate may
appoint addi-
tional trust-
tees.

R. S., p. 1926,
L. 1879, ch.
280, § 2.
Closing up of
inebriate asy-
lum and trans-
fer of property.

120. Within fifteen days from and after their appointment, the said trustees shall meet in the administration rooms of said asylum, and select by lot two of their number for each class into which their number has been divided by the first section of this act, and shall, by ballot, by a majority vote, designate one of their number as their chairman, and in like manner shall designate one of their number as secretary of their board.

Ibid § 3.
Meeting of
trustees.

121. Upon surrendering possession of said property to said trustees, the said managers shall make out and file with the said trustees a true and full inventory, in duplicate, of all the property so to be transferred; and the said trustees shall receipt for and take possession of such property, delivering to said managers one copy of said inventory, receipted by their chairman and secretary, and shall transmit to the comptroller of this state the other copy of said inventory so receipted; and thereupon the said managers shall be relieved from further liability for the care and custody of such property so transferred.

Ibid § 4.
Inventory of
property
transferred.

122. The said trustees, whenever organized as provided in

Ibid § 6.
Alteration
and repair of
building.

the third section of this act, shall devise and prepare plans for the alteration and repair of the buildings of said asylum, and for additional buildings thereto, in a plain and substantial style of architecture suitable for the purposes of an asylum for the chronic insane, which plans with full specifications of the same shall be submitted by them to the state board of charities for approval, adoption, or modification by them; and upon the adoption by said state board of charities of such plans, the said trustees shall proceed to contract for such repairs and alterations, and for the erection of such additional buildings, in pursuance of said plans and specifications so approved or modified; the aggregate cost of which repairs and alterations, and for such additional buildings, shall not exceed the sum hereinafter appropriated for such purposes. The said trustees shall select one of their number, or some other suitable person, to superintend such repairs and alterations, and the erection of such additional buildings, who shall receive for his services and expenses therein such sums of money as the board of trustees shall deem reasonable and just, to be paid to him out of such sums as are herein appropriated for such repairs and alterations, and for the erection of such additional buildings, not to exceed six dollars per day for each day of service. The said trustees and the said building superintendent shall have no interest, direct or indirect, in any contract for such repairs and alterations, or for the erection of such additional buildings, or for furnishing materials or labor for the same, and the said building superintendent shall be subject to removal by such board of trustees.

123. The sum of sixty-seven thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purposes of such repairs and alterations, and for the erection of such additional buildings and for maintenance, furnishing, and incidental expenses attending the organization of the asylum; and the further sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay off and discharge the obligations of the managers of the New York state inebriate asylum, now due or to become due on the first day of May, eighteen hundred and seventy-nine, which sum of five

Ibid § 6.
Appropriation for repairs, etc.

thousand dollars, or so much thereof as may be necessary, shall be paid by the state treasurer, on the warrant of the comptroller by the order of the said board of managers, upon the presentation to the comptroller by them of a certified schedule of all existing indebtedness of said inebriate asylum, provided the said managers convey and deliver to the trustees of the Binghamton asylum for the chronic insane, when appointed, all the personal property belonging to the asylum and farm, and now used for the purposes of such asylum and farm, and estimated by said managers to be of the value of at least twenty thousand dollars; and treasurer shall pay to the order of said trustees, on the warrant of the comptroller, such sum or sums of money as may be required by them in the execution of their trust, and at such times as the same may be needed for the purposes aforesaid; and the said trustees shall, as often as the comptroller may require the same, and upon the completion of said contract, make to him a true and detailed report of all moneys received by them by virtue of this act, and of all expenditures of the same, and shall truly account for all moneys received by them, whether expended or remaining in their hands.

124. The said trustees shall have the general direction, management, and control of all the property and concerns of the said asylum, not otherwise provided for by law, and shall see that the design of its institution shall be carried into effect, and everything faithfully done according to law and the by-laws, rules, and regulations of the asylum; and shall make full report in each year ending on the thirtieth day of September of their doings to the legislature in the first week of each annual session thereof.

125. The said trustees shall appoint a superintendent, who shall be a well educated physician of experience with treatment of the insane, and a treasurer, who shall give bonds to the people of this state, in such sum and with such sureties as the comptroller shall approve, for the faithful performance of his duties and trust. They shall also appoint upon the nomination of the superintendent a steward, two assistant physicians, and a matron, all of whom, as well as the superintendent, shall constantly reside in the asylum, and be designated the resident officers thereof.

126. The said trustees shall, from time to time, fix and de-

Ibid § 7.
Powers of
trustees.

Ibid § 8.
Superintend-
ent; other
officers.

Ibid § 9.
Salaries.

termine the annual salaries and allowances of the treasurer and the resident officers of the asylum, subject to the approval of the governor, secretary of state, and comptroller, provided that such salaries do not, in the aggregate, exceed the sum of ten thousand and five hundred dollars for one year, which salaries shall be paid quarterly, on the first days of January, April, July, and October in each year, by the treasurer of the state, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, to the order of the treasurer of the asylum, on his presenting a bill therefor, duly signed by the steward, and certified as correct by the superintendent, and thereupon by the treasurer of the asylum to the officers entitled to the same, taking proper receipts therefor in a book to be kept by him for that purpose.

127. Before entering upon the discharge of their respective duties, the treasurer, superintendent, and steward of the asylum shall severally take and subscribe the oath of office prescribed in the first section of the twelfth article of the constitution of this state, and file the same in the office of the secretary of state.

Ibid § 11.
By-laws.

128. The said trustees are hereby directed and empowered, subject to the approval of the state board of charities, to establish such by-laws as they may deem necessary and expedient for regulating the appointment and duties of officers, assistants, and employes, and also to ordain and enforce a suitable system of rules and regulations for the internal government, discipline, and management of the asylum.

Ibid § 12.
Powers and
duties of su-
perintendent.

129. The superintendent shall be the chief executive officer of the asylum. He shall have the general superintendence of the buildings, their furniture and fixtures, the grounds and the farm, and its stock, and the direction and control of all persons employed therein, subject to the by-laws, rules, and regulations established by the trustees. He shall daily ascertain the condition of the inmates of the asylum, and prescribe their treatment in the manner prescribed in the by-laws, and shall assign his co-resident officers to their respective duties, subject to the by-laws, and shall also appoint, subject to the approval of the trustees, and within the limit prescribed in the by-laws, such and so many other officers, assistants, and attendants, as he may deem necessary

for the economical and efficient performance of the business of the asylum, and shall prescribe their several duties and compensations, and shall have power to discharge the same at his pleasure; but in every case of discharge he shall forthwith record the same, with his reasons therefor, under an appropriate heading in a book kept at the asylum for such purpose. He shall also have power, for good and sufficient cause, to suspend from duty a resident officer until the next meeting of the board of trustees; but in such case he shall forthwith give written notice of his action, with its cause and circumstances, to one of the trustees, whose duty thereupon shall be to call a special meeting of the trustees, to provide for the exigency. He shall also, from time to time, give such orders and instructions as he may deem most expedient to insure good conduct, fidelity, and economy in every department of the asylum; and he is hereby authorized and enjoined to maintain salutary discipline among all who are employed by or in the asylum, or on its grounds. He shall further cause full and true accounts and records of all his doings as superintendent, and of the entire business and operations of the institution, to be kept regularly, from day to day, in books of record kept for such purpose, in the manner and to the extent prescribed in the by-laws; and he shall see that all such accounts and records are fully made up in each year for the preceding year, to and including the last day of September, and shall, within thirty days thereafter, present to the trustees a succinct account of the principal facts and results so recorded, with his report thereon. The first assistant physician shall perform the duties and be subject to the responsibilities of the superintendent during the sickness or absence of the latter.

130. The treasurer shall have the care and custody of all moneys belonging to the asylum. He shall open with one of the banks in the city of Binghamton, <sup>Ibid § 13.
Treasurer.</sup> to be selected with the approbation of the comptroller of the state, an account in his own name as such treasurer; and he shall deposit all moneys immediately upon receiving them in such bank, and shall draw for the same only for the uses of the asylum, and in the manner prescribed in the by-laws, upon the written order of the steward, specifying the object of the payment. He shall keep full and accurate accounts of

receipts and payments, in the manner directed by the by-laws, and such other accounts as the trustees shall direct. He shall balance all the accounts on his books annually, on the last day of September, and make a statement of the balances thereof, and an abstract of the receipts and payments of the preceding year, and submit the same to the auditing committee of the board of trustees within ten days thereafter, which committee shall compare the same with his books and vouchers, and verify the same by a further comparison with the books of the steward, and shall certify the result of their examination and audit to the board of trustees within ten days thereafter. He shall also render quarterly statements of his receipts and payments for the previous quarter, on or before the tenth day of January, April, July, and October, in each year, to such auditing committee, who shall make like comparison, verification and certificate, as in the case of the annual balance and statement of accounts. He shall further render an account of the condition of his books, and of the funds, and other property in his custody, whenever required to do so by the trustees or the superintendent.

131. The steward, under the direction of the superintendent, shall make all purchases for the asylum, and preserve the original bills and receipts therefor, and shall keep full and accurate accounts of the same, in books kept for such purpose; and also copies of all orders drawn by himself upon the treasurer. He shall also, under like direction, make contracts in the name of the superintendent with the attendants and assistants, and keep, and settle their accounts; he shall also keep the accounts for the support of the inmates of the asylum and expenses incurred in their behalf, and shall furnish the treasurer, every month, a statement of such as fall due within the month; he shall make, for the information and inspection of the superintendent, treasurer and trustees, quarterly abstracts of all accounts up to the last days of March, June, September, and December, and submit the same to the superintendent within five days thereafter in each case; and he shall be accountable for the careful keeping and economical use of all furniture, stores, and other articles provided for the asylum.

132. The resident officers of the asylum, and all attendants

and assistants actually and regularly employed therein, shall, during the time of such employment, be exempt from serving on juries, from all assessments for labor on highways, and in time of peace from service in the militia; and the certificate of the superintendent of the fact of such employment shall be sufficient evidence thereof.

Ibid § 15.
Exemption of
resident officers
and attendants.

133. The trustees shall keep, in a book provided for that purpose, a full and true record of their doings, which shall be open at all reasonable times to the inspection of the governor, the comptroller, the state board of charities, and of all persons whom they, or either of them, or either house of the legislature, may appoint to examine the same.

Ibid § 16.
Trustees'
records.

134. The trustees shall maintain an effective inspection of the asylum, for which purpose they shall make frequent visitations thereto, a majority of them at least once every three months, and the whole board once a year, at the times and in the manner prescribed in the by-laws. In a book kept for that purpose, the visiting trustees shall note the date of each visit, the condition of the asylum and inmates, with their opinion thereon, which all the trustees present shall sign. The general results of such inspection, with such suggestions for improvement as they may have recommended, shall be inserted in their annual report to the legislature.

Ibid § 17.
Trustees' visits.

135. The trustees shall receive no compensation for their services, but shall receive such reasonable traveling and other expenses incurred necessarily by them as the comptroller shall approve, which shall be paid to them by the treasurer of the asylum.

Ibid § 18.
Compensation
of trustees.

136. All purchases for the use of the asylum shall be made for cash, and not on credit or time; every voucher taken for the same shall be filled up at the time it is taken; every abstract of vouchers for money paid shall have attached thereto the oath of the steward that such vouchers were filled up and receipted, and the money paid therefor, at the time or times the same is therein purported to have been done, and the trustees shall make all needful rules and regulations to enforce the provisions of this section.

Ibid § 19.
Purchases.

137. The trustees of said asylum, as portions of the building

Ibid § 20.
Removal of
chronic
insane from
counties; to
be county
charge.

from time to time may be completed for the reception of the insane, shall give notice thereof to the state board of charities, and also as to the number of patients they may be ready to receive. The chronic pauper insane, from the poorhouses of the counties which may be designated by the state board of charities therefor, shall be sent to the said asylum herein established, by the county superintendents of the poor; and such numbers of the chronic insane pauper inmates of state lunatic asylums, from the counties thus designated, as may be discharged therefrom not recovered, and who continue a public charge, shall also be sent to said asylum; and all such patients shall be a charge upon the respective counties from which they are sent, whether such patient shall be sent by the superintendent of the poor, or by order of any court or officer thereof, or from lunatic asylums.

Ibid § 21.
Discharge of
patients;
visits of state
board of
charities.

138. The trustees, upon the superintendent's certificate of entire recovery, may discharge any patient to the care of his or her friends, or to the care of the superintendent of the poor; or they may discharge any patient, upon the superintendent's certificate that such patient is harmless and will probably continue so, and is not likely to be improved by farther treatment in the asylum, to his or her friends who will present sufficient evidence that they are able to maintain and care for the same properly. They may also discharge and deliver any patient as aforesaid, whose relations or friends will undertake with good and approved sureties for his or her peaceable behavior, safe custody, and comfortable maintenance without further public charge, and the bond of such sureties shall be approved by the county judge of the county from which such patient was sent, and shall be filed in the county clerk's office of said county. Upon the presentation of a certified copy thereof the trustees may discharge such patient; and in all such cases the trustees shall forthwith notify the superintendent of the poor of the proper county of such discharge and such guarantees. The state board of charities shall, by a specially appointed committee, annually visit the asylum, and on a personal inspection and due examination of its official records, and on conferring with the superintendent, may direct the discharge or removal to the counties from whence they come of any quiet and harmless

chronic insane in the asylum, if in the judgment of the committee their health and comfort can properly be provided for by the superintendents of the poor of their respective counties.

139. Whenever the trustees of said asylum, or the state board of charities shall order a patient removed from the asylum to the county whence he came, the superintendent of the poor of such county shall audit and pay the actual and reasonable expense of such removal as part of the contingent expenses of the poor of such county. But if any town, city, or person be legally liable for the support of such patient, the amount of said expenses may be recovered by such superintendent, of the corporation or person so liable, for the use of such county. If such superintendent of the poor neglect or refuse to pay such expenses on demand, the treasurer of the asylum may pay the same and charge the amount thereof to such county, and the treasurer of said county is hereby authorized and required, on demand of the treasurer of said asylum, to pay the same with interest after thirty days; and the supervisors of such county shall levy and raise the amount thereof as other county charges are levied and collected.

*Ibid § 22.
Removal from
asylum ;
county super-
intendent to
pay expenses
of ; refusal of
superintend-
ent to pay.*

140. The treasurer of every county having patients in said asylum is hereby authorized and directed to pay to the treasurer of the asylum all bills for the clothing and maintenance of such patients, as they shall become due and payable according to the by-laws of the asylum, upon the order of the steward; and the supervisors of said county shall annually levy and collect the amount of such bills as other bills and taxes are levied and collected by them, and also such further sums as will probably cover all similar bills for said county for one year in advance. Said county shall, however, have the right to require any individual, town, city or county that is legally liable for the support of such patient or patients, to reimburse it in the amount of said bills, with interest from the day of paying the same.

*Ibid § 23.
County treas-
urer to pay
bills for main-
tenance, etc. ;
supervisors to
levy tax ;
towns to reim-
burse.*

141. Every town, city or county, paying for the support of any inmate in said asylum shall have the right to require any other town, city or county that is legally liable for his support to refund to it the amount so paid, with interest thereon from the time of payment.

*Ibid § 24.
Towns, etc.,
may require
other towns,
legally liable
to refund.*

142. All town and county officers sending a patient to the said asylum shall, before sending him, see that he is in a state of bodily cleanliness, and is comfortably clothed, and provided with a suitable change of raiment, as prescribed by the by-laws of the asylum.

Ibid § 25.
Local officers
to attend to
cleanliness,
etc., of pa-
tients sent to
asylum.

143. The charges for maintaining a patient in said asylum, in addition to the charge for clothing, shall be annually fixed by the trustees, and shall not exceed the actual cost thereof, exclusive of officers' salaries and appropriations for repairs; nor shall it exceed the rate required at the Willard asylum.

Ibid § 26.
Charges for
maintenance
of patients.

144. None of the provisions of this act shall restrain or abridge the power and authority of the supreme court of the state over the persons and alleged property of the insane.

Ibid § 27.
Power of su-
preme court
not abridged.

PRIVATE ASYLUMS.

145. No person or association shall establish or keep an asylum, institution, house or retreat for the care, custody or treatment of the insane or persons of unsound mind, for compensation or hire, without first obtaining a license therefor from the state commissioner in lunacy; *provided*, that this section shall not apply to any state asylum or institution, or any asylum or institution established or conducted by any county; and provided, also, that it shall not apply to cases where an insane person or persons of unsound mind is detained and treated at his own house or that of some relative.

R. S., p. 1921,
L. 1874,
ch. 446, tit. 9,
§ 1.
No private
asylum to be
established
without li-
cense there-
for; when
not to apply.

146. Every application for such license shall be accompanied by a plan of the premises proposed to be occupied, to be drawn on a scale of not less than one-eighth of an inch to a foot, with a description of the situation thereof, and the length, breadth and height of, and a reference by figure or letter to every room and apartment therein, and a statement of the quantity of land not covered by any building annexed to such house and appropriated to the exclusive use, exercise and recreation of the patients proposed to be received therein, and also a statement of the number of patients proposed to be received into such house, and whether the license so applied for is for the reception of male or female

R. S., p. 1887,
L. 1873,
ch. 571, § 10.
Applications
for license.

patients, or for both, and if for the reception of both, of the number of each sex proposed to be received into such house, and for the means by which the one sex may be kept distinct and apart from the other. And it shall not be lawful for said board to grant any such license without having first, either collectively or by a committee thereof, visited the premises proposed to be licensed, and being satisfied by such examination that they conform to the description of the application, and are otherwise fit and suitable for the purposes for which they are designed to be used.

147. Every application for such license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients of either sex proposed to be received therein; and it shall not be lawful for said commissioner to grant any such license without having first visited the premises proposed to be licensed, and being satisfied by such examination that they are as described, and are otherwise fit and suitable for the purposes for which they are designed to be used.

R. S., p. 1921,
L. 1874, ch.
446, tit. 9, § 2.
Application
for license;
commissioner
to visit pre-
mises before
granting.

148. Whenever said state board of charities, upon the application of any person, association or corporation, made as provided by the preceding section of this act,* and examination of the building and means employed, or proposed to be employed, to take the care of insane persons, or persons of unsound mind, by such person, association or corporation, shall determine that the same are sufficient and proper for such purpose, the said board is hereby authorized and required to grant such license, and to make such conditions, terms and regulations, in regard thereto, as shall seem meet and proper for the care and protection, health and comfort, and for the inspection and examination of all insane persons, or persons of unsound mind, so lodged, boarded, kept or detained in such asylum or institution, and of all insane persons, or persons of unsound mind, in the charge or keeping of such person, association or corporation; which said license shall be filed in the office of the clerk of the

R. S., p. 1887,
L. 1873,
ch. 371, § 11.
When board
to grant
license.

* See pl. 146, *supra*.

county in which such asylum or institution is situated. The said board may revoke the license of any asylum or institution, issued under the provisions of this act, for reasons deemed satisfactory to said board; but such revocation shall be in writing and filed as aforesaid, and notice thereof given in writing to the person, association or corporation to whom such license was given.

149. After the expiration of three months from the passage of this act, any person or persons who shall conduct or maintain any private insane asylum or institution, and the officer of any corporation who shall conduct or maintain such private asylum or institution without having obtained a license as herein provided, or for more than thirty days after the revocation of such license, or shall receive any patient after notice of such revocation, shall be guilty of a misdemeanor, and it shall be the duty of the district attorney of the proper county to proceed against such offender as may be provided by law.

150. A person who conducts or maintains a private insane asylum, or institution for the care or treatment of persons of unsound mind, without a license issued and granted to such person according to law, is guilty of a misdemeanor.

MISCELLANEOUS PROVISIONS.

151. Whenever the state board of commissioners of public charities, or the managers, directors or trustees of any asylum, hospital, or other charitable institution, the managers, directors or trustees of which are appointed by the governor and senate, or by the legislature, shall deem it necessary or proper to investigate and ascertain the truth of any charge or complaint made or circulated respecting the conduct of the superintendent, assistants, subordinate officer or servants, in whatever capacity or duty employed by or under the official control of any such board, managers, directors or trustees, it shall be lawful for the presiding officer for the time being of any such board, managers, directors or trustees, to administer oaths to all witnesses coming before them respectively for examination, and to issue compulsory process for the

May revoke
license.

Ibid § 12.
Penalty for
maintaining
asylum with-
out license.

R. S. 1882, vol.
4 Penal Code,
§ 445.
Private in-
sane asylums;
license.

R. S., p. 1893.
L. 1871, ch.
699, § 1.
Investigation
of complaints,
etc.; power to
administer
oaths and
compel atten-
dance of wit-
nesses; pro-
duction of
papers.

attendance of any witness within the state whom they may respectively desire to examine, and for the production of all papers that any such witness may possess, or have in his power, touching the matter of such complaint or investigation; and wilful false swearing by any witness who may be so examined is hereby declared to be perjury.

152. All persons examined as witnesses under the first section of this act shall be paid the same fees as are now paid to witnesses in the supreme court by the said board, managers, directors or trustees, authorizing the issuing of such compulsory process.

*Ibid § 2.
Fees of witnesses.*

153. Any person wilfully neglecting to obey any subpoena or citation to testify or produce papers, as provided in the act, shall be liable to a penalty of one hundred dollars, to be recovered, with costs of suit, before any court having cognizance thereof.

*Ibid § 3.
Penalty for disobeying subpoena.*

154. It shall be the duty of the superintendent, warden or other proper officer in charge of each of the benevolent institutions of this state, in which are persons whose maintenance, treatment, tuition or clothing is a charge against any county of this state, to make a report on or before the fifteenth day of September, in each year to the clerk of the board of supervisors of the county to which such maintenance, treatment, tuition or clothing is chargeable, which report shall show the name, age, sex, color and nationality of every person in such institution, chargeable to such county; also, when each person was received into such institution, from what town sent, for what term received, to what time the expense of each such person has been paid, and the amount chargeable to such county for each such person for the ensuing year, which report shall be verified by the oath or affirmation of the person making the same.

*R. S., p. 1894,
L. 1876, ch. 54,
§ 1.
Report of charges for maintenance, clothing, tuition, etc.*

155. The fiscal year of all state asylums, hospitals, charitable and reformatory institutions in this state shall commence on the first day of October in each year, and close on the thirtieth day of September, inclusive, next succeeding; and the annual reports of said institutions heretofore required for the use of government shall be made for the fiscal year as herein established; *provided*, however, that the first report made by any

*R. S., p. 1894,
L. 1879,
ch. 109, § 1.
Fiscal year to commence Oct. 1, and 4, end Sept. 30; reports.*

of said institutions, after the passage of this act, shall be for the period commencing with the commencement of its fiscal year as heretofore established to and including the thirtieth day of September, eighteen hundred and seventy-nine.

156. Each of the asylums, reformatories, homes, retreats, penitentiaries, jails, or other institutions of this state, in which the board, instruction, care or clothing of persons committed thereto is, or shall be, a charge against any county of this state, or town therein, shall be known for the purposes of this act as one of the state benevolent institutions of the state.

R. S., p. 1894,
L. 1680,
ch. 347, § 1.
What are
state institu-
tions.

157. It shall be the duty of every judge, justice, superintendent of the poor, overseer of the poor, supervisor, or other person, who by law is authorized to make commitments or appointments to any of the state benevolent institutions of the state, to make a report in writing to the clerk of the board of supervisors of the county so liable, or of the county in which any town is so liable, for the board, instruction, care, or clothing mentioned in section one of this act; said report shall be made within ten days after making such commitment or appointment, and shall show, when known, the nationality, age, sex, and residence of each person so appointed or committed, and the length of time of such appointment or commitment.

Ibid § 2.
Committing
officer to re-
port.

158. It shall be the duty of the keeper, superintendent, warden, secretary, director, or other proper officer of each of the state benevolent institutions of the state, within ten days after receiving any person into any of the institutions mentioned in section one of this act, whose board, care, instruction, tuition, or clothing shall be chargeable to any town or county, to make a report in writing to the clerk of the board of supervisors of the county so liable, or of which any town is so liable. Such report shall show when such persons were received into said institution, and when known, the name, age, sex, nationality, residence, length of time of commitment or appointment, the name of the officer making such commitment or appointment, and the sum chargeable per week, month or year for such person.

Ibid § 3.
Officers of in-
stitution to
report.

159. In case of the death, removal or discharge of any person committed or appointed, to any of the institu-

Ibid § 4.
Death, re-

tutions mentioned in this act, it shall be the duty of the officers mentioned in section three of this act, to immediately report to the clerk of the board of supervisors of the respective county the date of such death, removal or discharge.

removal or discharge of occupants to be reported.

160. It shall be the duty of the officers mentioned in section three of this act, annually, on or before the fifth day of October, to present to the clerk of the board of supervisors of the county liable for the board, instruction, care or clothing mentioned in this act, or of the county in which any town is so liable, a sworn statement of the account of such institution, with such county or town, up to first day of said October, and in case of a claim for clothing, an itemized statement of the same, and in case any part of the board, care, tuition, or clothing has been paid by any person or persons, the account shall show what sum has been so paid, and accompanying such account shall be a report showing the name, age, sex, nationality, and residence of each person mentioned in the account, the name of the officer who made the commitment or appointment, the date and length of commitment or appointment, the time to which the account has been paid, and the amount claimed to the first day of said October, the sum per week or per annum charged, and if no part of such account has been paid by any person or persons, the report shall show such fact, duly verified.

Ibid § 5. Officers to render sworn statement of accounts.

161. Any officer mentioned in this act who shall refuse or neglect to make the reports required by this act shall not be entitled to receive any compensation or pay for any services, salary or otherwise, from any town or county to which he is required to make such report.

Ibid § 6. Penalty for neglect.

162. The clerk of the board of supervisors who shall receive any report or account in pursuance of the provisions of this act shall carefully file the same and present the same to the respective boards of supervisors on the second day of the annual meeting of the board next succeeding the receipt of the same.

Ibid § 7. Filing of report.

163. Any justice of the supreme court of the judicial district, within whose boundaries any of the public charitable institutions of the state hereinafter referred to is located, is hereby authorized to grant on written ap-

R. S., p. 1896. L. 1881, ch. 523, § 1. Justice of supreme court may grant or

ders to enable officers to visit state charitable institutions; term for which order is granted.

plication of the board of managers of the state charities aid association, a corporation organized under chapter three hundred and nineteen of the laws of eighteen hundred and forty-eight, and amendatory acts, through its president or other designated officer, to such persons as may be named in said application, orders for the purpose of enabling them or any of them to visit, inspect and examine in behalf of said association, in the county in which the visitor so appointed shall reside, any of the county poorhouses, and town poorhouses and city almshouses within the state, and located within such judicial district. Each of such orders shall specify the institution or institutions to be visited, inspected and examined, and the names of the persons by whom the visitation, inspection and examination are to be made, and shall be in force for one year from the date on which it shall have been granted, unless sooner revoked.

164. It shall be the duty of any and all persons in charge of each and every poorhouse or almshouse, embraced in the order specified in the first section of this act, to admit any or all of the persons named in the said order of the justice of the supreme court, into every part of such institution, and to render the said persons so named in said order every facility within their power to enable them to make in a thorough manner their visit, inspection and examination, which are hereby declared to be for a public purpose, and to be made with a view to public benefit. Obedience to the order herein authorized shall be enforced in the same manner and with a like effect as obedience is enforced to an order or mandate made by a court of record.

165. It shall be the duty of the said corporation to make an annual report to the state board of charities.

Ibid § 3.
Annual report.

166. Any soldier or sailor who may have been regularly admitted into the New York State Soldiers' and Sailors' Home, at Bath, who shall be found to be insane, may be transferred, by an order of the president and secretary of the board of trustees and the superintendent of the home, to any state lunatic asylum, there to remain at the expense of the New York State Soldiers' and Sailors' Home until legally discharged; said expense to be paid out of the maintenance fund of said home, and at the same rate as is charged for the support of the county insane.

R. S., p. 1931,
L. 1879, ch. 407.
§ 1.
Transfer of insane soldiers and sailors to state lunatic asylum.
Expense.

167. The commissioners of the department of public charities and correction of the city of New York are hereby authorized, in their discretion, to transfer any insane person, heretofore or hereafter committed to, or being in their custody, or any institution under their control, to any state lunatic asylum, the managers or proper officers of which shall consent to receive the same; and every such person so transferred shall be detained, or permitted to remain in any such asylum, until discharged according to law. The expense of the maintenance of every person so transferred, which shall be fixed by agreement between said commissioners and such managers or officers, and of removing from, and, in case of discharge, of bringing back to said city every such person, shall be estimated for, raised and paid in the same manner as the other expenditures of the said commissioners of the department of charities and corrections of the city of New York, such expenses not to exceed the present cost of their maintenance.

R. S., p. 1932.
L. 1881,
ch. 49, § 1.
Commission-
ers may trans-
fer insane
persons to
insane asy-
lum; ex-
pense, how to
be estimated
and paid.

168. The boards of managers of state lunatic asylums are hereby authorized to appoint two or more of the attendants and employes of said asylums as policemen, whose duty it shall be, under the orders of the superintendent, to arrest and return to the asylum insane persons who may escape therefrom.

R. S., p. 1908,
L. 1874, ch.
476, § 35.
Policemen
may be ap-
pointed.

169. The resident officers of all state lunatic asylums, and all attendants and assistants actually employed therein shall, during the time of such employment, be exempt from serving on juries, and in time of peace, from service in the militia, and the certificate of the superintendent shall be evidence of the fact of such employment.

Ibid § 36.
Officers, etc.,
exempt from
jury service,
etc.

ADMISSION AND DISCHARGE.

170. No person shall be committed to or confined as a patient in any asylum, public or private, or in any institution, home or retreat for the care and treatment of the insane, except upon the certificate of two physicians, under oath, setting forth the insanity of such person. But no person shall be held in confinement in any such asylum for more than five days, unless within that time such certificate be approved by a judge or justice of a court of record of

R. S., p. 1901,
L. 1874, ch.
446, tit. 1, art.
1, § 1.
Certificate of
physicians;
approval
thereof by a
judge of a
court of
record;
judges may
take proofs,
etc.

the county or district in which the alleged lunatic resides, and said judge or justice may institute inquiry and take proofs as to any alleged lunacy before approving or disapproving of such certificate and said judge or justice may in his discretion call a jury in each case to determine the question of lunacy.

171. It shall not be lawful for any physician to certify to the insanity of any person for the purpose of securing his commitment to an asylum, unless said physician be of reputable character, a graduate of some incorporated medical college, a permanent resident of the state, and shall have been in the actual practice of his profession for at least three years. And such qualifications shall be certified to by a judge of any court of record. No certificate of insanity shall be made except after a personal examination of the party alleged to be insane, and according to forms prescribed by the state commissioner in lunacy, and every such certificate shall bear date of not more than ten days prior to such commitment.

172. It shall not be lawful for any physician to certify to the insanity of any person for the purpose of committing him to an asylum of which the said physician is either the superintendent, proprietor and officer or a regular professional attendant therein.

173. Every superintendent of a state asylum or public or private asylum, institution, home or retreat for the care and treatment of the insane, shall within three days after the reception of any patient, make or cause to be made, a descriptive entry of such case in a book exclusively set apart for that purpose. He shall also make entries from time to time of the mental state, bodily condition and medical treatment of such patient, together with the forms of restraint employed, during the time such patient remains under his care, and in the event of the discharge or death of such patient, the superintendent aforesaid shall state in such case-book the circumstances appertaining thereto.

174. The county superintendents of the poor of any county or town, to which any person shall be chargeable, who shall be or shall become a lunatic, may send any such person to any state lunatic asylum by an order under their hands, and in compliance with the provisions of this act.

Ibid § 2.
Qualification
of physician
certifying; to
be certified by
a judge;
personal
examination.

Ibid § 3.
When phys-
ician may not
certify.

Ibid § 4.
Descriptive
entry of case
to be made;
mental state
of.

Ibid § 5.
County supt.
of the poor,
power of, over
pauper insane.

175. In case of the refusal or neglect of any committee or guardian of any lunatic, or his relatives, to confine and maintain him, or where there is no such committee, guardian or relative of sufficient ability to do so, it shall be the duty of the overseers of the poor, or constables of the city or town where any lunatic shall be found, to report the same forthwith to the superintendent of the poor, who shall apply to the county judge, special county judge or surrogate, or any other judge or justice of a court of record of the city or county in which the lunatic may reside or be found, who, upon being satisfied upon examination that it would be dangerous to permit such lunatic to go at large, shall issue his warrant, directed to the constables and overseers of the poor of such city or town, commanding them to cause such lunatic to be apprehended, and to be sent within the next ten days to some state lunatic asylum, or to such public or private asylum as may be approved by any standing order or resolution of the supervisors of the county, to be there kept and maintained until discharged by law.

*Ibid § 6,
as amended
1883, ch. 193,
§ 1.
Overseers of
the poor or
constables to
report to supt.
of poor; his
duty there-
upon; county
judge to issue
warrant; order
of supervisors.*

176. It shall be the duty of the overseers of the poor or constables to whom such warrant shall be directed, to procure a suitable place for the confinement of such lunatic as therein directed pursuant to the preceding section, but in no case shall any lunatic be confined in any other place than a state lunatic asylum or public or private asylum duly approved as aforesaid, for a longer period than ten days.

*Ibid § 7.
Lunatic not
to be confined
more than ten
days, except
in asylum.*

177. No person who by reason of lunacy or otherwise, is so far disordered in his mind as to be dangerous to himself or others shall be committed as a disorderly person to any prison, jail, house of correction, or confined therein unless an arrangement shall have been made for that purpose with the keeper thereof; and no such lunatic or person disordered in his mind shall be confined in the same room with any person charged with or convicted of any crime, nor shall such lunatic be confined in any prison, jail or house of correction for more than ten days.

*Ibid § 8.
Not to be con-
fined as dis-
orderly
persons, etc.;
nor with
criminals.*

178. If any person being of disordered mind and committed as a dangerous lunatic to any prison, jail or house

*Ibid § 9.
Person com-*

mitted as dangerous lunatic, to be sent to asylum. of correction as set forth in the preceding section shall continue to be insane at the expiration of ten days, he shall be sent forthwith to some state lunatic asylum or to such public or private asylum as may be approved as aforesaid.

179. Any overseer of the poor, constable, keeper of a jail or other person who shall confine any lunatic in any other manner or in any other place than such as are herein specified shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment not exceeding one year, or to both, at the discretion of the court before which the conviction shall be had.

180. If any lunatic, committed under the provisions of this article, or any friend in his behalf, be dissatisfied with any final decision or order of a county judge, special county judge, surrogate, judge of the superior court or court of common pleas of a city, or police magistrate, he may, within three days after such order or decision, appeal therefrom to a justice of the supreme court, who shall, thereupon, stay his being sent out of the county, and forthwith call a jury to decide upon the fact of lunacy. After a full and fair investigation, aided by the testimony of at least two respectable physicians, if such jury find him sane, the justice shall forthwith discharge him, or otherwise he shall confirm the order for his being sent immediately to an asylum. In case any county judge, special county judge, surrogate, judge of the superior court or common pleas of a city, or police magistrate refuse to make an order for the confinement of any insane person, proved to be dangerous to himself or others if at large, he shall state his reasons for such refusal in writing, so that any person aggrieved may appeal therefrom to a justice of the supreme court, who shall hear and determine the matter in a summary way or call a jury as he may think most fit and proper.

181. If such lunatic is not possessed of sufficient property to maintain himself, it shall be the duty of the father, mother, or children of such lunatic, if of sufficient ability, to provide a suitable place for his confinement.

Ibid § 10.
To confine lunatic in other place or manner than herein prescribed, a misdemeanor.

Ibid § 11.
Appeal; proceedings upon; if judge refuse order for confinement, he must state his reasons in writing; appeal therefrom.

Ibid § 12.
When relatives are to provide places for confinement,

ment, and to confine and maintain him in such manner as shall be agreeable to the provisions of this act. But in case his relatives are not of sufficient ability to maintain him, then the superintendent of the poor of the county shall, upon his order, send such pauper lunatic to any state asylum, or to such public or private asylum as may be approved by a standing order or resolution of the supervisors, within ten days.

etc.; in case of inability, superintendent of poor to send lunatic to asylum.

182. The overseers and superintendents of the poor shall have the same remedies to compel such relatives to confine and maintain such lunatic, and to collect the costs and charges of his confinement, as are given by law in the case of poor and impotent persons becoming chargeable to any town.

Ibid § 13. Remedies to compel relatives to maintain, etc.

183. When a person in indigent circumstances—not a pauper—becomes insane, application may be made in his behalf to any county judge, special county judge, judge of a superior court or common pleas of the county where he resides, and said judge shall fully investigate the facts of the case, both as to the question of his indigence as well as to that of his insanity. And if the judge certifies that satisfactory proof of his insanity has been adduced, and that his estate is insufficient to support him and his family (or, if he has no family, himself) while under the visitation of insanity, then it shall be the duty of any judge, before whom application for that purpose is made, to cause reasonable notice thereof, and of the time and place of hearing the same to be given to one of the superintendents of the poor of the county chargeable with the expense of supporting such person in a state asylum, if admitted, and he shall then proceed to ascertain when such person became insane. On granting such certificate the judge may, in his discretion, require the friends of the patient to give security to the superintendent of the poor of the county to remove the patient from the asylum as soon as he shall recover. But in every case where a patient is admitted into an asylum, as hereinbefore provided, shall have remained there two years and has not recovered, the managers of the asylum may, in their discretion, cause such person to be returned to the county whence he came, and

Ibid § 14. Indigent insane, application to be made to county judge; judge to give notice of time of hearing; judge may require friends to give security to remove patients when cured; filing of papers; supervisors to raise money for expenses.

charge the expense of such removal to the county. The judge granting said order of indigence shall file all papers belonging to such proceedings, together with his decision, with the clerk of the county, and report the facts to the supervisors, whose duty it shall be, at their next annual meeting to raise the money requisite to meet the expenses of support of such indigent lunatic.

184. When an insane person in indigent circumstances—
Ibid § 15. When friends have paid expenses for six months, supervisors are authorized to raise funds for another year. not a pauper—shall have been sent to any state asylum by his friends, who have paid his bill therein for six months, if the superintendent shall certify that he is a fit patient and likely to be benefited by remaining in the institution, the supervisors of the county of his residence are authorized and required, upon an application, under oath, in his behalf, to raise a sum of money sufficient to defray the expenses of his remaining there another year, and to pay the same to the treasurer of the asylum. And they shall repeat the same for two years more upon like application and the production of a new certificate of like import from the superintendent of such asylum.

185. The expense of sending any lunatic to a state asylum, and supporting him there, shall be defrayed by the county or town to which he may be chargeable. If chargeable to a county, or to any town whose poor moneys are required to be paid into the county treasury, such expense shall be paid by the county treasurer out of the funds appropriated to the support of the poor belonging to such county or town, after being allowed and certified by the county superintendents. If such lunatic be chargeable to a town whose poor moneys are not required to be paid into the county treasury, such expense shall be paid by the overseers of the poor thereof.

186. The overseers of the poor of any city or town shall have
Ibid § 17. Remedies to compel committee or guardian to maintain, etc., court of sessions to make orders. the same remedies to compel the committee or guardian of the estate of any lunatic to confine and maintain such lunatic, and to collect of such committee the cost and charges of his confinement and support, as are given in the preceding sections against the relatives of such lunatic. And the court of general sessions of the peace of the city or county shall make

orders against such committee personally, and enforce them in the same manner as against the relatives of any poor person, so long as such committee has any property in his hands, for the support of such lunatic.

187. None of the foregoing provisions shall be deemed to restrain or abridge the power and authority of the supreme court, the superior court and the court of common pleas of the city and county of New York, or the superior court of the city of Buffalo or the city court of Brooklyn or any county courts concerning the safe keeping of any lunatics or the charge of their persons or estates.

Ibid § 18.
Powers of
courts not
abridged.

188. The county superintendents of the poor shall have all the powers and authority herein given to overseers of the poor of any town.

Ibid § 19.
Powers of county
superintendents.

189. Whenever any person who is possessed of sufficient property to maintain himself, becomes by lunacy or otherwise, so far disordered in his senses as to endanger his own person or the person or property of others, it shall be the duty of the committee of his person and estate to provide a suitable place for his confinement, and to confine and maintain him in such manner as shall be approved by the proper legal authority; and in every case of lunacy hereafter occurring, the lunatic shall be sent within ten days to some state lunatic asylum, or to such public or private asylum as may be approved by a standing order or resolution of the supervisors of the county. The superintendents and overseers of the poor are severally enjoined to see that this provision be carried into effect in the most humane and speedy manner, as well in case the lunatic or his relatives are of sufficient ability to defray expenses, as in case of a pauper.

R. S., p. 1908.
Ibid § 37.
Duty of committee to maintain, etc.; lunatic to be sent to state or private asylum; superintendents and overseers of the poor, their duties.

190. If any inmate of any such almshouse, when admitted, is insane, or thereafter becomes insane or of unsound mind, and the accommodations in said almshouse, in the opinion of said secretary, [of board of public charities] are not adequate and proper for his treatment and care, the said secretary may cause his removal to the appropriate state asylum for insane, and he shall be received by the officer in charge of such asylum and be maintained therein until duly discharged. The expenses for the support,

R. S., p. 1890,
L. 1873, ch.
661, § 9.
Insane paupers; expenses, how borne.

treatment and care of insane persons or persons of unsound mind, so received in any state asylum, shall be paid to the treasurer thereof by the treasurer of the state, on the warrant of the comptroller, upon the account being duly rendered and certified to by the secretary of said board; *provided, however*, that such expenses shall not exceed those charged to counties, cities or towns for the support, treatment and care of insane persons, or persons of unsound mind in such asylum.

191. No insane person confined in any county poorhouse or county asylum shall be discharged therefrom by any keeper of such establishment, by any superintendent of the poor, or by any other county authority, without an order from a county judge or judge of the supreme court, founded upon satisfactory evidence that it is safe, legal and right to make such discharge, as regards the individual and the public. The violation of this provision shall be deemed a misdemeanor, and be punishable by a fine not exceeding five hundred dollars nor less than one hundred dollars, in the discretion of the court. This section shall not apply to the counties of New York and Kings; but no insane person shall be discharged from either of the lunatic asylums of the said counties, without the certificate, in writing, of the physician thereof, which certificate shall be filed and kept in said asylum, stating that such discharge is safe and proper.

192. A person, who confines an idiot, lunatic or insane person, in any other manner or in any other place than as authorized by law, and a person guilty of harsh, cruel or unkind treatment of, or any neglect of duty towards any idiot, lunatic or insane person under confinement, whether lawfully or unlawfully confined, is guilty of a misdemeanor.

CRIMINAL INSANE.

193. An act done by a person who is an idiot, imbecile, lunatic, or insane, is not a crime. A person cannot be tried, sentenced to any punishment, or punished for a crime, while he is in a state of idiocy, imbecility, lunacy, or insanity, so as to be incapable of understanding the proceeding or making his defense.

R. S., p. 1908,
L. 1874, ch. 446,
tit. 1, art. 1, § 34.
No insane per-
son to be dis-
charged from
poor-house or
county asy-
lum without
order from a
judge; not ap-
plicable to
New York and
Kings
counties.

R. S., vol. 4,
Penal Code,
§ 377.
Unlawful
confinement
of idiots, in-
sane persons.

Ibid § 20.
Irresponsibil-
ity of lunatics.

194. A person is not excused from criminal liability as an idiot, imbecile, lunatic, or insane person, except upon proof that, at the time of committing the alleged criminal act, he was laboring under such a defect of reason, as either

Ibid § 21.
Lunatics, etc.,
when excused
from criminal
liability.

(1) Not to know the nature or quality of the act he was doing, or

(2) Not to know that the act was wrong.

195. If any person in confinement under indictment for the crime of arson, murder, or attempt at murder, or highway robbery, shall appear to be insane, the court of oyer and terminer in which such indictment is pending shall have power, with the concurrence of the presiding judge of such court, summarily to inquire into the sanity of such person and the degree of mental capacity possessed by him, and for that purpose may appoint a commission to examine such person and inquire into the facts of his case and report thereon to the court, and if the said court shall find such person insane, or not of sufficient mental capacity to undertake his defense, they may by order remand such person to such state lunatic asylum as in their judgment shall be meet, there to remain until restored to his right mind, when he shall be remanded to prison and criminal proceedings be resumed, or otherwise discharged according to law.

R. S., p. 1905,
L. 1874, ch.
446, tit. 1, art.
2, § 20.
Persons in-
dicted for ar-
son, murder,
etc., court
may inquire
into his men-
tal condition;
if insane,
may remand
him to lunatic
asylum.

196. The governor shall possess the same powers conferred upon courts of oyer and terminer in the case of persons confined under conviction for offenses for which the punishment is death. And whenever any person under sentence of death shall be declared insane and irresponsible, by a commission duly appointed for that purpose, the governor may, in his discretion, order his removal to the state lunatic asylum for insane criminals, there to remain until restored to his right mind, and it shall be the duty of the medical superintendent of such asylum, whenever, in his opinion, said convict is cured of his insanity, to report the fact to the state commissioner in lunacy and a justice of the supreme court of the district in which said asylum is situated, who shall thereupon inquire into the truth of such fact, and if the same be proved to their satisfaction,

Ibid § 21.
When the
governor may
order removal
of criminals to
the state luna-
tic asylum,
proceedings
where sanity
is restored.

they shall so certify it under their official hands and seals to the clerk of the court in which such convict was sentenced, and cause him, the said convict, to be returned to the custody of the sheriff of the county whence he came and at the expense thereof, there to be dealt with according to law.

197. The costs of any commission of lunacy appointed pursuant to the provisions of this article shall be a charge upon the county in which the same shall have been executed; and the certificate of the court by which such commission shall have been appointed shall constitute a legal voucher thereof in the hands of the county treasurer. *Provided, nevertheless,* that the costs of all commissions appointed by the governor shall be defrayed from the fund appropriated for the contingent expenses of the executive department.

198. Any person now or hereafter confined in either of the state lunatic asylums upon the charge of arson or murder, or attempt at murder or highway robbery, under the provisions of this act or any former act, may, upon the application of any superintendent of an asylum, be brought before a justice of the supreme court, who may order his removal to the state lunatic asylum for insane criminals at Auburn. The provisions of the preceding section, requiring the county to defray the expenses of a person sent to either asylum, shall be equally applicable to similar expenses arising under this section.

199. Any person who is now, or shall be hereafter, confined in any penitentiary, and who shall appear to be insane, may, on application of the superintendent thereof, be transferred to the state lunatic asylum for insane criminals at Auburn, under an order of any justice of the supreme court, or the county judge of the county in which such penitentiary is located, upon satisfactory evidence that such person is insane; and the judge shall thereupon order his removal forthwith to said asylum, where he shall remain until recovered or otherwise discharged according to law.

200. The penitentiary from which convict (if under sentence for a misdemeanor) shall have been transferred, shall be liable for the expenses of his care and maintenance during the time he shall remain in

Ibid § 22.
Cost of com-
mission.

Ibid § 23.
Removal to
asylum for in-
sane crimi-
nals; ex-
penses
thereof.

Ibid § 24.
Transfer
from peniten-
tiary to asy-
lum for in-
sane crimi-
nals.

Ibid § 23.
Expense of
care and
maintenance.

said asylum, provided that he is removed therefrom before the expiration of his sentence. If he should continue insane after the expiration of the time for which he was sentenced, then the county from which he was sent to said penitentiary shall pay his expenses, as hereinbefore provided in section twenty-two of this act.

201. If any person in confinement under indictment or under sentence of imprisonment, or under a criminal charge, or for want of bail for good behavior, or for keeping the peace, or for appearing as a witness, or in consequence of any summary conviction, or by order of any justice, or under any other than civil process, shall appear to be insane, the county judge of the county where he is confined shall institute a careful investigation, call two respectable physicians and other credible witnesses, invite the district attorney to aid in the examination (and if he deem it necessary, call a jury, and for that purpose is fully empowered to compel the attendance of witnesses and jurors), and if it be satisfactorily proved that he is insane, said judge may discharge him from imprisonment and order his safe custody and removal to a state asylum, where he shall remain until restored to his right mind; and then the superintendent shall inform the said judge and district attorney, so that the person so confined may, within sixty days thereafter, be remanded to prison and criminal proceedings be resumed or otherwise discharged, or if the period of his imprisonment shall have expired, he shall be discharged. When such person is sent to an asylum, the county from which he is sent shall defray all his expenses while there and of sending him back if returned, but the county may recover the amount so paid from his own estate, if he have any, or from any relative, town, city or county that would have been bound to provide for and maintain him elsewhere.

202. If a person imprisoned on attachment, or any civil process, or for the non-payment of a militia fine, becomes insane, one of the judges mentioned in the last preceding section of this act shall institute like proceedings in his case as are required in the case provided for in said section; but notice shall be given by mail

Ibid § 26.
Person in
confinement
under other
than civil pro-
cess, appear-
ing to be in-
sane, county
judge to insti-
tute investi-
gation; when
judge may
discharge or
order removal
to asylum;
person to be
remanded or
discharged;
county to pay
expenses;
may recover
amount paid.

Ibid § 27.
Proceedings
in case of in-
sane person
imprisoned on
civil process;
expenses.

or otherwise, to the plaintiff or his attorney, if in the state; and if it shall be proved to the satisfaction of said judge that the prisoner is insane, he may discharge him from imprisonment and order him into safe custody and to be sent to a state asylum. The provisions of the last preceding section, requiring the county to defray the expenses of a patient sent to a state asylum, shall be equally applicable to similar expenses arising under this section.

203. Persons charged with misdemeanor and acquitted on the ground of insanity may be kept in custody and sent to a state asylum, in the same way as persons charged with crime, and their expenses shall be paid in the like manner.

*Ibid § 28.
Persons acquitted on ground of insanity.*

204. The boards of supervisors in the respective counties of this state are hereby empowered, and it shall be their duty, annually to fix and determine the compensation to be allowed and paid to officers for the conveyance of juvenile delinquents to the houses of refuge, and of lunatics to the insane asylums, and no other or greater amount than so fixed and determined shall be allowed and paid for such service.

*Ibid § 29.
Compensation of officers to be fixed by board of supervisors.*

205. Whenever any person in confinement under indictment for the crime of arson, murder or attempt at murder, or highway robbery, desires to offer the plea of insanity as a general traverse and his whole defense to such indictment, he shall present such plea at the time of his arraignment, and at no other stage of the trial but this, shall such plea or defense be received or entertained by the court; and the court before whom such trial is pending shall have power, with the concurrence of the presiding judge thereof, to appoint a commission to examine such person and to inquire and report to the court aforesaid, upon the fact of his mental sanity at the date of the offense with which he stands charged. The commission aforesaid shall institute a careful investigation, call such witnesses as may be necessary and for that purpose is fully empowered to compel the attendance of witnesses. Upon the report of said commission, if the court before whom such indictment is pending shall find that such person was insane and irresponsible at the date of the offense with which

*Ibid § 30.
Defense of insanity, when it must be pleaded; commission to examine and report: If found insane, accused to be removed to a state lunatic asylum.*

he stands charged, the court aforesaid shall order his removal to some state lunatic asylum, there to remain for observation and treatment, until such time as, in the opinion of a justice of the supreme court, it is safe, legal and right to discharge him.

206. Whenever any person accused of the crime of arson, murder, or attempted murder, or highway robbery, shall have been acquitted upon trial upon the ground of insanity, the jury shall bring in a special verdict to that effect and so state it in their finding; and the court before whom such trial is had, shall order such person to be committed to some state lunatic asylum, there to remain for observation and care until such time as, in the judgment of a justice of the supreme court, founded upon satisfactory evidence, it is safe, legal and right to discharge him.

Ibid § 31.
Special
verdict.

207. Whenever any insane person in confinement under indictment shall be committed, as hereinbefore recited, to any state lunatic asylum, the county from which he is sent shall defray all the expenses of such person, while at such asylum, and the expense of returning him to such county; but the county may recover the amount so paid from his own estate, or from any relative, town, city or county that would have been bound by existing laws, to provide for and maintain him elsewhere.

Ibid § 32.
Expenses to
be paid by
county when
insane person
under indictment
shall be
committed to
asylum.

208. Whenever any insane person in confinement under indictment for arson, murder, or attempt at murder, or highway robbery, or who has been acquitted thereof on the ground of insanity, and has been committed to some state lunatic asylum, pursuant to the provisions of the preceding sections, shall be restored to his right mind, it shall be the duty of the superintendent of such asylum, to give notice thereof to the state commissioner in lunacy, who shall thereupon inquire into the truth of such fact, and if the same shall be proved to his satisfaction, he shall so certify it under his official hand and seal to a justice of the supreme court of the district in which such asylum is situated, who shall thereupon, and upon such other facts as may be proven before him, determine whether it is safe, legal and right that such party in confinement as aforesaid, should be discharged.

Ibid § 33.
Superintendent
to give
notice of
recovery.

209. Whenever a person in confinement under indictment, desires to offer the plea of insanity, he may present such plea at the time of his arraignment, as a specification under the plea of not guilty.

R. S. vol. 4.
Code of Criminal Procedure,
§ 336.
Plea of insanity.

210. When the defense is insanity of the defendant the jury must be instructed, if they acquit him on that ground, to state the fact with their verdict. The court must, thereupon, if the defendant be in custody, and they deem his discharge dangerous to the public peace or safety, order him to be committed to the state lunatic asylum, until he becomes sane.

Ibid § 454.
Acquittal on ground of insanity, commitment.

211. He may show for cause, against the judgment, (1) That he is insane; and if, in the opinion of the court, there be reasonable ground for believing him to be insane, the question of his insanity must be tried as provided by this code. If, upon the trial of that question, it is found that he is sane, judgment must be pronounced; but if found insane, he must be committed to the state lunatic asylum until he becomes sane; and when notice is given of that fact, he must be brought before the court for judgment. * * *

Ibid § 481.
What cause may be shown against the judgment.

212. When a defendant pleads insanity as prescribed in section 336, the court in which the indictment is pending, instead of proceeding with the trial of the indictment, may appoint a commission of not more than three disinterested persons, to examine him and report to the court as to his sanity at the time of the commission of the crime. If a defendant in confinement, under indictment, appears to be at any time before or after conviction, insane, the court in which the indictment is pending, unless the defendant is under sentence of death, may appoint a like commission to examine him and report to the court as to his sanity at the time of the examination. The commission must summarily proceed to make their examination. Before commencing they must take the oath prescribed in the code of civil procedure, to be taken by referees. They must be attended by the district attorney of the county and may call and examine witnesses and compel their attendance. The council of the defendant may take part in the proceedings. When the commissioners have concluded their examination

Ibid § 658.
Appointment of commission; their proceedings.

they must forthwith report the facts to the court with their opinion thereon.

213. If the commission find the defendant insane the trial or judgment must be suspended, until he becomes sane; and the court, if it deem his discharge dangerous to the public peace or safety, must order that he be, in the meantime, committed by the sheriff to a state lunatic asylum, and that upon his becoming sane, he be re-delivered by the superintendent of the asylum to the sheriff.

Ibid § 630.
If found insane, trial or judgment suspended, and defendant to be committed to state lunatic asylum, if his discharge be dangerous to public peace or safety.

214. The commitment of the defendant, as mentioned in the last section, exonerates his bail, or entitles a person authorized to receive the property of the defendant, to a return of any money he may have deposited instead of bail.

Ibid § 600.
If defendant committed, bail exonerated or deposit of money refunded.

215. If the defendant be received into the asylum, he must be detained there until he becomes sane. When he becomes sane the superintendent must give a written notice of that fact to a judge of the supreme court of the district in which the asylum is situated. The judge must require the sheriff without delay to bring the defendant from the asylum, and place him in the proper custody until he be brought to trial, judgment, or execution, as the case may be, or be legally discharged.

Ibid § 601.
Detention of defendant in asylum and proceedings on his becoming sane.

216. The expenses of sending the defendant to the asylum, of keeping him there, and of bringing him back, are, in the first instance, chargeable to the county from which he was sent; but the county may recover them from the estate of the defendant, if he have any, or from a relative, town, city, or county, bound to provide for and maintain him elsewhere.

Ibid § 602.
Expenses incident to sending the defendant to the asylum, how paid.

217. If, after a defendant has been sentenced to the punishment of death, there is reasonable ground to believe that he has become insane, the sheriff of the county in which the conviction took place, with the concurrence of a justice of the supreme court, or the county judge of the county, who may make an order to that effect, must impanel a jury of twelve persons of that county, qualified to serve as jurors in a court of record, to examine the question of the sanity of the defendant. The sheriff must give at least

Ibid § 490.
If convict becomes insane, sheriff to impanel jury.

seven days' notice of the time and place of the meeting of the jury to the district attorney of the county. Section 108 of the code of civil procedure regulates the impaneling of such a jury, and the proceedings upon the inquisition so far as it is applicable.

218. The district attorney must attend the inquiry. He Ibid § 497. Duty of district attorney. may produce witnesses before the jury; for which purpose he has the same power to issue subpoenas, as for witnesses to attend a grand jury, and disobedience thereto may be punished by the court of oyer and terminer for that county, at any term thereof, in the same manner as disobedience to process issued by that court.

219. The inquisition of the jury must be signed by the jurors and the sheriff. If it be found by the inquisition that the defendant is insane, the sheriff must Ibid § 498. Inquisition; suspension of execution. suspend execution of the warrant directing the defendant's death, until he receives a warrant from the governor, directing that the defendant be executed.

220. The sheriff must immediately transmit the inquisition to the governor; who, as soon as he is satisfied of the sanity of the defendant, or of his restoration to sanity, must issue his warrant, appointing a time and place for the execution of the latter, pursuant to his sentence, unless the sentence is commuted or the convict pardoned, and may in the meantime give directions for the disposition and custody of the defendant. Ibid § 499. Sheriff to transmit inquisition to governor; governor's duty.

NORTH CAROLINA.

BOARD OF PUBLIC CHARITIES.

1. Creation, term of office, vacancies.
2. Meetings, inspection of charitable and penal institutions, powers and duties.
3. Reports, recommendations for erection of additional buildings.
4. Statistics of insanity.
5. Inspection of asylums.
6. May transfer patients to asylum.
7. May require officers to report.
8. Annual report and recommendations.
9. County commissioners to report statistics; circulars supplied.
10. County commissioners to require reports from townships trustees.
11. Penalties for neglect of duties.

GOVERNMENT OF ASYLUMS.

12. Location and titles.
13. May hold property in trust.
14. Classification of asylums for whites and negroes.
15. Division of state for apportionment of white patients.
16. Transfer of patient to proper asylum.
17. Government vested in a board of directors, appointment.
18. Executive committee of board.
19. Directors may receive, hold and convey property.
20. Annual inspection of asylums, by directors.
21. Superintendent, appointment; qualification, term of office.
22. Assistant physicians, appointment, term of office.
23. Officers, appointment, term of office.
24. Salaries of officers.
25. Superintendent, powers and duties.
26. By-laws of directors.
27. Exemption from prosecution.
28. Moneys for asylum paid into state treasury, distinct fund for bequests to asylums.

29. Exemption of officers from militia, road and jury service.
30. Records of asylums.
31. Inspection of asylums, reports.
32. Accounts and estimates, when made.

ADMISSION AND DISCHARGE.

33. Application for admission, proceedings.
34. Justice's report on commitment.
35. Interrogatories.
36. Investigation by superintendent, admission to asylum or delivery to friends.
37. Discharge, committee of directors for, removal to county of settlement.
38. Notice to sheriff of escapes, return to asylums.
39. Settlement of indigent insane.
40. Bond for restraint, when offered in suit.
41. Bond, form of.
42. Expenses of commitment and removal charged to county.
43. Commitment to asylum on default of obligor.
44. Commitment of private patients to asylum out of state.
45. Support of private patients, liability of guardian.
46. Justices' report.
47. Clerk to lay proceedings before judge.
48. Commitment to asylum, requisites.
49. Preferences.
50. Temporary confinement pending admission.
51. Discharge from confinement by county commissioners.

CRIMINAL INSANE.

52. Transfer to asylums, fact of insanity to be stated in verdict.
53. Investigation of insanity of prisoner pending trial; jury to find fact of insanity.
54. Trial on recovery.
55. Insane convicts, examination, transfer to asylums.

1. The general assembly shall, immediately on the ratification of this act, proceed by concurrent vote to select five electors who shall be styled the board of public charities of the state of North Carolina. One of the persons so selected shall hold office for one year; one for two years, one for three years, one for four years and one for five years, the term to begin the first of July, one thousand eight hundred and sixty-nine. Appointments to fill vacancies in this board, caused by resignation or removal from the state, death, or from any other cause, may be made for the residue of such term by the governor.

Battle's Revi-
sal, 1873.
Ch. 93, § 1.
Board elected
by general as-
sembly.

2. The board of public charities shall hold regular meetings on the first Tuesday in January, April, July and October, and as often besides as they may deem needful. They shall make such rules and orders for the regulation of their own proceedings as they may deem proper; they shall investigate and supervise the whole system of the charitable and penal institutions of the state, and shall recommend such changes and additional provisions as they may deem needful for their economical and efficient administration, and no changes shall be made in the management of any of the institutions without the advice or consent of the board. They shall receive no compensation for their services except their traveling expenses, which shall be allowed and paid.

Ibid § 2.
Meetings, etc.
Board to
supervise
public institu-
tions, com-
pensation.

3. The general condition of the state as affected by crimes, vagrancy and pauperism, shall also come under the view of the board, and it shall be their duty to report to the general assembly when, in their judgment, it may become needful for the erection of the several reformatory institutions, whose organization is provided for in article eleven of the constitution.

Ibid § 3.
Duty to report.

4. The board shall also give special attention to the causes of insanity, defect or loss of the several senses, idiocy and the deformity and infirmity of the physical organization. They shall, besides their own observation, avail themselves of correspondence and exchange of facts of the labors of others in these departments, and thus be able to afford the general assembly data to guide them in future legislation for the amelioration of the condition

Ibid § 4.
Special atten-
tion to be paid
to the causes
of insanity,
etc.

of the people, as well as to contribute to enlighten public opinion and direct it to interests so vital to the prosperity of the state.

5. Personal visits may be required by the board, of one or more of its members, or otherwise, to make careful investigation into the condition of the several county jails and almshouses, and the treatment of their unfortunate inmates, and report on these points, so that the provisions of section six, article eleven, of the constitution may be enforced.

*Ibid § 5.
Visits and
reports.*

6. Whenever the board shall have reason to believe that any insane person, not incurable, is deprived of proper remedial treatment, and is confined in any almshouse or other place, whether such insane person is a public charge or otherwise, it shall be the duty of said board to cause such insane person to be conveyed to the state asylum, there to receive the best medical attention. So also, it shall be their care that all the unfortunate shall participate in the charities of the state.

*Ibid § 6.
Insane persons.*

7. The board may require the superintendent, etc., of the several charitable and penal institutions of the state to report to them of any matter relating to its inmates, their manner of instruction and treatment, with structure of their buildings, and to furnish them any desired statistics at their command.

*Ibid § 7.
May require
reports, etc.*

8. The board of public charities shall annually prepare and submit to the general assembly a complete and full report of their doings during the preceding year, showing the actual condition of all the state institutions under their control, with such suggestions as they may deem necessary and pertinent, which they shall print.

*Ibid § 8.
Annual reports to be
made by
board.*

9. The commissioners of each county in this state shall in each year on or before the first Monday in November, report to the board of public charities such information in regard to the number and condition of the inmates of their poorhouse and prisons, together with the number of outdoor paupers, and the deaf, dumb, blind, idiotic and insane of their county not in asylum or almshouse, and such other information as may be desirable to get a complete view of the number and condition of these classes of persons in the state. The board of public charities shall

*Ibid § 9.
County commissioners to
report to
board. Board
to furnish circulars, etc.*

prepare and furnish to the commissioners of each county carefully arranged circulars indicating the information desired, the blank column of which shall be correctly filled in the report.

10. It shall be lawful for the commissioners of each county in aid of this purpose to require the trustees of each township in their county to prepare and furnish information to them of all the facts called for in the circular of the board of public charities.

Ibid § 10.
County commissioners to require reports from trustees of townships.

11. The commissioners of any county or the trustees of any township who shall refuse or neglect to furnish the information required by this chapter when they have been provided with the necessary blank forms for paupers, shall, on complaint being made before any judge of the superior court, be fined a sum not exceeding one hundred dollars.

Ibid § 11.
Penalty for refusing.

12. "The North Carolina Insane Asylum," located near Raleigh, shall be and remain a corporation under that name; "The Western North Carolina Insane Asylum," located near Morganton, shall be and remain a corporation under that name; and "The Eastern North Carolina Insane Asylum," located near Goldsboro, shall be and remain a corporation under that name. And under such name each corporation is invested with all the property and rights heretofore held by each under what name soever called or incorporated, and all other corporate names are hereby abolished.

Act of 1883,
ch. 106, § 1.
Corporate existence continued.

Corporate rights.

13. "The North Carolina Insane Asylum," "The Western North Carolina Insane Asylum" and "The Eastern North Carolina Insane Asylum" may each acquire and hold for the purposes of its institution, property and estate by devise, bequest, or by any manner of gift, purchase or conveyance whatever.

Ibid § 2.
Authorized to acquire and hold property

14. "The North Carolina Insane Asylum" and "The Western North Carolina Insane Asylum" shall be exclusively for the accommodation, maintenance, care and treatment of the white insane of the state, and "The Eastern North Carolina Insane Asylum" shall be exclusively for the accommodation, maintenance, care and treatment of the colored insane of the state.

Ibid § 3.
N. C. Insane Asylum and Western N. C. Insane Asylum for exclusive care of white insane, Eastern N. C. Insane Asylum for exclusive care of col'd insane.

15. The boards of directors of "The North Carolina Insane Asylum," and of "The Western North Carolina Insane Asylum," shall jointly, as soon as practicable, in writing, determine upon an equal division of the white population of the state, as nearly as may be by a line running from the state of Virginia on the north, to the state of South Carolina on the south; and thereafter insane white persons settled in counties east of such line shall only be admitted to "The North Carolina Insane Asylum," and insane white persons settled in counties west of such line shall only be admitted to "The Western North Carolina Insane Asylum." But said boards of directors, nevertheless, shall, from time to time, change such line so as to make a larger proportion of counties west of such line whenever and as the capacity of "The Western North Carolina Insane Asylum" shall be ready to receive an increased number of patients.

Ibid § 4.
Directors to
make equal
division of
white popula-
tion between
two asylums
for white
insane.

16. All insane persons in "The North Carolina Insane Asylum," upon the determination of such line, whose settlement may be in the counties west of such line, shall at such time as may be determined by the boards of directors of "The North Carolina Insane Asylum" and "The Western North Carolina Insane Asylum," be sent by the superintendent of "The North Carolina Insane Asylum" to "The Western North Carolina Insane Asylum," and the cost of such removal shall be paid by the state treasurer upon the certificate of said superintendent and the warrant of the governor.

Ibid § 5.
Insane per-
sons in N. C.
insane asylum
whose settle-
ment may be
in territory of
western asy-
lum to be sent
to that asy-
lum.

17. Each corporation shall be under the management of a board of nine directors, nominated by the governor and by and with the advice and consent of a majority of the senators elect, appointed by him, of whom five directors shall be a quorum, except where three of their number are hereafter in this chapter empowered to act for special purposes. Each board of directors shall be in classes of three, as now divided by law, and the terms of office of said classes shall expire as follows, viz.: of the first class, on the first day of March, one thousand eight hundred and eighty-three, of the second class, on the first day of March, one thousand eight hundred and eighty-five, and of the third class, on the first day of March, one thousand eight hun-

Ibid § 6.
Board of direc-
tors.

Quorum.

Terms of of-
fice.

dred and eighty-seven, and at the expiration of said respective terms all appointments shall be for a term of six years, except such as are made to fill unexpired terms.

18. Each board of directors shall, out of their number, appoint three members as an executive committee, two of whom shall reside in or near the location of their respective corporations, who shall hold their respective offices as such for one year, and shall have such powers and be subject to such duties as the board of directors may delegate to them.

*Ibid § 7.
Executive
committee.*

19. Each board of directors shall direct and manage the affairs of their institution, and shall for its purposes have power to receive, hold, manage, convey or otherwise dispose of, in the name of their institution, all such property or estate, as may hereafter be given or otherwise conveyed to their corporation; and the members of each board shall serve without reward, save their traveling expenses incurred in the discharge of their official duties.

*Ibid § 8.
Duties and
powers of di-
rectors.*

20. Each board of directors shall convene at the asylum, of which it has charge, on the first Wednesday after the first Monday of March in each year, and at such other times as they shall appoint, and investigate the administration of its affairs, and report on the same to the general assembly, with such remarks and recommendations as to them shall seem expedient.

*Ibid § 9.
Meetings of
board of direc-
tors.*

21. Each board of directors shall appoint a superintendent of their institution and prescribe his duties. He shall be a skilled physician, educated to his profession, of good moral character, of prompt business habits, and of kindly disposition. He shall hold his office for six years from and after his appointment, unless sooner removed by said board, who may for infidelity to his trust, gross immorality or incompetency to discharge the duties of his office, fully proved and declared, and the proof thereof recorded in the book of their proceedings, remove him and appoint another in his place.

*Ibid § 10.
Superintend-
ent's qualifica-
tions.*

*Term of office.
Removal.*

22. Each board of directors shall appoint one or more assistant physicians, and with the advice and consent of the superintendent, prescribe his duties. Every assistant physician hereafter appointed shall hold his

*Ibid § 11.
Assistant
physicians.*

place for two years from and after his appointment, unless sooner removed by said board, for good cause, which shall be specified and recorded in their proceedings.

23. Each board of directors, at their annual meeting, shall, on the nomination of the superintendent, appoint a steward and matron, who shall hold their places for one year, unless sooner removed by said board for good cause, which cause shall be specified in their proceedings, and other officers shall be appointed for the unexpired term of those removed. The state treasurer shall be treasurer of said corporations, and he may appoint deputies to act for him at Morganton and Goldsboro, and may pay such deputies reasonable compensation. [The state treasurer shall keep all accounts of the institutions, and shall pay out all moneys upon the warrant of the respective superintendents, countersigned by two members of the board of directors, under such rules and regulations as the respective boards of directors may establish.]

Ibid § 12.
as amended
by act of 1883,
ch. 405, § 1.
Stewards and
matrons.

Treasurer.

Deputy
treasurers.

Duties of
state treas-
urer.

24. Each board of directors shall fix the salaries and compensation of the superintendent, and the officers and employes whose services may be necessary for the management of the asylum under charge of said board: *provided*, that the salaries shall not be diminished during the term of the incumbents: *and provided further*, that the salary of the superintendent shall be a sum certain, without other compensation or allowance, except such rooms in the asylum for the use of his family, and such articles of food produced on the premises as said board of directors may permit.

Ibid § 13.
Salaries.

Proviso.

25. Each superintendent shall exercise exclusive direction and control over all the subordinate officers and employes engaged in the service and labors of his asylum, and he may discharge such as have been employed by himself or his predecessors, and shall report to the board of directors of his asylum the misconduct of all other subordinates.

Ibid § 14.
Superintend-
ents to have
exclusive con-
trol of subor-
dinate officers
and employes.

26. Each board of directors shall make all such by-laws and regulations for the government of their institution as shall be necessary; among which regulations

Ibid § 15.
By-laws, etc.

shall be such as shall make the institution as nearly self-supporting as is consistent with the purpose of its creation. The board shall cause the by-laws and regulations, the report of the superintendent and that of the treasurer to be published with their report to the general assembly, copies of which shall be sent to the clerk of the superior court of every county in the state.

By-laws and official reports to be published with report of directors to general assembly.

27. No director or superintendent of any of said insane asylums shall be personally liable for any act or thing done under or in pursuance of any of the provisions of this chapter.

Ibid § 26. Liabilities of directors and superintendents.

28. All money and proceeds of property given to any insane asylum, all money arising from any estate which may be owned by such asylum, and all dues to such asylum from any and all sources, shall be paid into the state treasury, and all donations in which there shall be special directions for their application, shall be kept as a distinct fund and faithfully applied as the donor may have directed; and the said insane asylum shall be supported by appropriations from the state treasury.

Ibid § 29. Money, etc., belonging to asylums payable to state treasurer.

Support of asylums.

29. In order to secure their constant supervision and attendance, the officers and employes of any insane asylum shall be exempt from serving on juries, in the militia, and from the duty of working on the public roads.

Ibid § 30. Officers, etc., exempt from jury service, etc.

30. Each board of directors shall cause all their proceedings to be faithfully and carefully written and recorded in books, and to this end may employ a clerk, and pay him a reasonable compensation for his services. The books shall at all times be open to the inspection of the general assembly.

Ibid § 31. Directors to keep record of proceedings.

31. The board of public charities and the members of the general assembly shall be ex-officio visitors of all insane asylums. It shall be the duty of the board of public charities to visit the asylums from time to time, as they may deem expedient, to examine into their condition, and make report thereon to the general assembly, with such suggestions and remarks as they may think proper. And to said

Ibid § 32. Board of public charities and members of general assembly ex-officio visitors.

Reports of superintendents.

board, and to the board of directors of his asylum, and to the general assembly only, shall each superintendent be required to make reports or furnish statistics.

32. The close of the fiscal year shall be the thirtieth day of November in each year, and all accounts and estimates shall be made with reference thereto. Ibid § 33. Fiscal year.

33. For admission into any insane asylum in other cases, the following proceedings shall be had: some respectable citizen, residing in the county of the alleged insane person, shall make before and file with a justice of the peace of the county, an affidavit in writing, which shall be substantially as follows:

State of North Carolina, }
County. }

The undersigned, residing in said county, maketh oath that he has carefully examined the alleged lunatic, and believes him to be an insane person, and to be, in the opinion of the undersigned, a fit subject for admission into an insane asylum. Form of affidavit.

Dated day of 18 . A. B., (affiant.)

Subscribed and sworn to. C. D., J. P.

Whereupon, unless the person in whose care or custody the alleged insane is, will agree to bring him before said justice without a warrant, or when such alleged insane person is confined in jail otherwise than for crime, the justice shall issue a precept, directed to the sheriff or to a constable (who shall be empowered for that purpose to take from jail such person) as follows:

State of North Carolina.

To the sheriff or constable of county Greeting:

Whereas, information on oath has been laid before me that is insane. You are hereby commanded to bring him before me or some other justice of the peace of said county, within the next ten days, that necessary proceedings may be had thereon. Form of warrant.

Given under my hand this day of , 18 .

C. D., J. P.

Upon the bringing of the alleged insane person before the justice by his friends, or upon the return of the precept with the body of the insane person, the justice shall cause to be associated with him one or more Justices to examine and take testimony of physician.

justices of said county, who together shall proceed to examine into the condition of mind of the alleged insane person, and shall take the testimony of at least one respectable physician, and such others as they may think proper. If any two of the justices shall decide that such person is insane, and some friend, as he may do, will not become bound, with good security to restrain him from committing injuries, and to keep, support and take care of him until the cause for confinement shall cease, such justices shall direct such insane person to be removed to the proper asylum as a patient; and to that end, they shall direct a warrant to the sheriff or constable, and at the same time shall transmit to the proper board of directors the examination of the witnesses, and a statement of such facts as the said justices shall deem pertinent to the subject matter, which warrant shall be substantially as follows:

When justices may direct insane to be removed.

State of North Carolina.

To the sheriff or constable of county Greeting:

Whereas, it has been made to satisfactorily appear to us, C. D. and E. F., justices of the peace of said county, that A. B., a citizen of the state, is an insane person, that he has a legal settlement in said county, and is a fit subject for an insane asylum, and that his being at large is injurious to himself and disadvantageous if not dangerous to the community: you are hereby commanded to take the said A. B. and convey him (to the proper asylum) and there deliver him to the superintendent thereof for safe keeping.

Form of warrant to be directed to sheriff.

Given under our hands this day of , 18 .

C. D., J. P.

E. F., J. P.

34. Whenever the justices of the peace, under the provisions of the preceding section, shall direct any insane person to be removed to an asylum for safe keeping, it shall be their duty to make a full report of their proceedings to the clerk of the superior court of their county.

Ibid § 18. Justices to make full report to clerk of superior court.

35. The following questions with their respective answers by at least one physician of respectable standing

Ibid § 19. Questions and

and such other competent witness as said justices may determine, duly sworn and subscribed by them, and so certified by said justices, shall be transmitted with the other papers to the board of directors of the proper asylum:—

answers to be
certified by
justices to the
board of di-
rectors.

- (1) What is the name of the patient?
- (2) Is he white or colored?
- (3) What is his age?
- (4) Is he married or single, and if married, for how many years?
- (5) What is the supposed cause of insanity?
- (6) In what way is the disease exhibited?
- (7) Has any medical treatment been pursued; if so, what kind and by whom?
- (8) How long has he been insane? Count from the first symptoms and give all known symptoms from that time to this date.
- (9) Has the patient manifested any propensity to injure himself or others; if so, in what way and how often?
- (10) Has he been subject to epilepsy?
- (11) Have any of his ancestors been insane; if so, state what ancestors, and what was the character of their insanity?
- (12) Has he any family; and if so, what persons compose it?
- (13) Are any of them insane, and what is the character of such insanity?
- (14) What is the occupation of the patient?
- (15) How many attacks of mental disease has the patient had?
- (16) Are the parents of the insane persons related by blood; if so, what is the degree of relationship?
- (17) Has the patient property; if so, state in what such property consists, and what is the value thereof?
- (18) Is he under any forcible restraint; if so, what?
- (19) Has the patient received any aid from the county; if so, what?
- (20) Give name and post office of the nearest relative or friend of the patient, with whom the superintendent of the insane asylum can correspond, as circumstances require for the benefit of the patient.
- (21) Give any information in your possession not embraced

in the above questions, which may throw light on the mental or physical condition of the patient.

36. Whenever an insane person shall be conveyed to any asylum, and the superintendent is in doubt as to the propriety of his admission, he may convene any three of the board of directors of his asylum, who shall constitute a board for the purpose of examining and deciding if such person is a proper subject for admission, and if a majority of such board so decide, he shall be received into said asylum; but a like board may at any time thereafter deliver said insane person to any friend who will become bound, with good surety, to restrain him from committing injuries, and to keep, maintain and take care of him, in the same manner as he might have become bound under the authority of the justice of the peace.

37. Any three of the board of directors of any asylum, upon the superintendent certifying the facts (a copy of which certificates shall be sent to the clerk of the superior court of the county of settlement) shall be a board to discharge or remove from their asylum any person admitted as insane, when such person has become or is found to be of sane mind, or when such person is incurable and in the opinion of the superintendent his being at large will not be injurious to himself or dangerous to the community, or said board may permit such person to go to the county of his settlement on probation, when in the opinion of the said superintendent it will not be injurious to himself or dangerous to the community, and said board may discharge or remove such person upon other sufficient cause appearing to them, and whenever any such person, if admitted as indigent, may be so discharged or removed, except as sane, it shall be the duty of the sheriff of the county of his settlement to convey such person to his county at its expense, and any such indigent person discharged as sane shall receive from such asylum a sum of money sufficient to pay his transportation to the county of his settlement, which sum shall be repaid by said county.

38. Any superintendent may notify any sheriff within whose county any person sent from his asylum on probation, or escaped therefrom, may be found, and there-

Ibid § 20.
Superintendent to refer doubtful cases to three directors.

Ibid § 21.
Removal from asylum of persons becoming sane, and of certain incurable insane.

Ibid § 22.
Sheriffs on notice from superintendents

upon it shall be the duty of such sheriff forthwith to take such person and return him to such asylum at the expense of his county.

to return to
asylum per-
sons on proba-
tion or es-
caped.

39. For the purposes of this chapter, the settlement of any person admitted to any insane asylum as insane, shall be in the county where the actual place of his residence, at his admission, may be situated, when such settlement comes in question.

Ibid § 23.
Settlement of
insane per-
sons.

40. All bonds executed for restraining insane persons from committing injuries, and for their safe keeping, support and care, shall be payable to the state of North Carolina, in the sum of five hundred dollars at least, and shall be transmitted to the clerk of the superior court of the county wherein said insane person is settled, for safe keeping, and may be put in suit by any person injured by said insane person by reason of his insane condition, and shall be put in suit by the solicitor for the judicial district in which the county of said insane person's residence is situated, for any other breach thereof, wherein the damages received shall be for the use of said insane person.

Ibid § 24.
Bond for re-
straining in-
sane persons
from commit-
ting injuries,
etc.

41. The form of bond mentioned in the preceding section shall be as follows :

Ibid § 25.
Form of bond.

State of North Carolina, }
County of . }

Know all men by these presents, that we, A. B. principal, and C. D. and E. F. sureties, are held and firmly bound unto the state of North Carolina, in the sum of dollars, for the payment whereof we bind ourselves and each of us.

Witness our hands and seals this day of , 18 .

The condition of the above obligation is this :

Whereas, the said A. B., with the view of hindering G. H., an insane person, resident in the county aforesaid, from being sent to insane asylum, (or to effect his release from the said asylum, as the case may be) hath undertaken to restrain him from committing injuries, and to keep, maintain, support and take care of the said G. H.

Now if the said A. B. shall faithful comply with the conditions of this obligation, then the same shall be void, otherwise it shall be in full force.

A. B. [Seal]
C. D. [Seal]
E. F. [Seal]

42. The cost and expense of conveying any indigent insane person to any of such asylums from any county, or of removing him therefrom to any county or of his return to the county of his settlement as sane, under any of the provisions of this chapter, shall be paid by the treasurer of such county upon the order of the chairman of its board of county commissioners: *provided*, that (except when Ibid § 27. Expense of conveying indigent insane. *Provido.* any such person admitted as indigent is discharged as sane) upon satisfactory proof before such board of county commissioners that such person or some other person liable for his maintenance has sufficient property to pay such costs and expenses, such board may refuse such payment, and the estate of such person shall be liable for such cost and expense.

43. Whenever it shall be made to appear to any two justices of the peace of the county of settlement of such insane person, that the conditions of the bond are not faithfully complied with, said insane person shall be sent back to the proper asylum by them, unless some other responsible and discreet friend will undertake to fulfil the duties of said obligation; and whenever said insane person shall be sent back, he shall not be delivered on any new bond of the defaulting obligor. Ibid § 28. Insane person sent back to asylum if conditions of bond are not complied with.

44. Whenever any person shall be found to be insane in the mode hereinbefore prescribed, and such person shall be possessed of an income amply sufficient to support those who may be legally dependent for support on the estate of such insane person, and moreover to support and maintain such insane person in any named asylum situated out of the state; and such insane person, if of capable mind to signify such preference, shall, in writing, declare his wish to be placed in such asylum without the state, instead of being in an asylum established by the state; (or in case such insane person is incapable of declaring such preference, then the same may be declared by his guardian;) and two respectable physicians who shall have examined such insane person, with the justices who made the examination, shall deem it proper, then it may be lawful for said justices, together with said physicians, to recommend in writing that such insane person shall be placed in the asylum so chosen as a patient thereof. Ibid § 34. Proceedings to place insane person possessed of sufficient income in asylum outside of state.

45. It shall be the duty of any person having the legal custody of the estate of such insane person, to supply the funds for his support in the asylum in which he may be placed, during his stay therein, and so long as they may be sufficient for that purpose, over and beyond maintaining and supporting those persons who may be legally dependent on the estate as aforesaid.

*Ibid § 35.
Duties of person having custody of estate.*

46. It shall be the duty of said justices to report the proceedings in such cases to the clerk of the superior court of the county in which such insane person may reside or be domiciled.

*Ibid § 36.
Justices of the peace to report proceedings to superior court clerk.*

47. The clerk of the court shall lay the said proceedings before the judge of the superior court of the district in which said insane person may reside or be domiciled, and if he approve them he shall so declare in writing, and such proceedings, with the approval thereof, shall be recorded by said clerk.

*Ibid § 37.
Clerk to lay proceedings before judge.*

48. A certified copy of such proceedings, with the approval of the said judge, shall be sufficient warrant to authorize any friend of such insane person appointed by the said judge to remove him to the asylum designated.

*Ibid § 38.
Certified copy of proceedings with judge's approval sufficient to authorize removal to asylum designated.*

49. In the admission of patients to any insane asylum, priority of admission shall be given to the indigent insane: *provided, however*, that the boards of directors may regulate admissions, having in view the curability of patients and the welfare of their institution: *and provided further*, that said boards may, if there be sufficient room, admit other than indigent insane persons upon payment of proper compensation.

*Ibid § 39.
Indigent insane to have priority of admission to asylum.*

Proviso.

50. When any person is found to be insane, under any of the provisions of this chapter, and he cannot immediately be admitted to the appropriate asylum, and such person is also found to be subject to such acts of violence as threaten injury to himself or danger to the community, and he cannot otherwise be properly restrained, he may be temporarily committed to the county jail, until a more suitable provision can be made for his care.

*Ibid § 40.
Temporary commitment of insane person to county jail.*

51. It shall be the duty of any board of county commissioners, by proper order to that effect, to discharge any ascer-

Ibid § 41.
Discharge of
insane person
from county
jail.

tained lunatic in their county not admitted to the appropriate insane asylum and not committed for crime, when it shall appear upon the certificate of two respectable physicians and the chairman of their board that such lunatic ought to be discharged if in any insane asylum.

Ibid § 16.
Superior court
judges to com-
mit to proper
asylum, per-
sons confined
in jail on
criminal
charges and
persons ac-
quitted of
crimes, who
are found to
be insane.

52. The judges of the superior court, in their respective districts shall commit to the proper asylum, (if there be room therein) as a patient, any person who may be confined in jail, on a criminal charge of any kind or degree, or upon a peace warrant, whenever the judge shall be satisfied by the verdict of a jury of inquisition that the alleged criminal act was committed while such person was insane, and that such insanity continues; and also any person acquitted upon a criminal charge, where, on the trial of such person, insanity was relied upon as a defense: *provided*, the fact of insanity was found as a distinct issue to exist at the time of such trial, or is so found by a jury of inquisition as such judge may direct. A copy of such finding in any of the above cases shall accompany the committal.

Ch. 57, § 9.
Proceedings
when im-
prisoned for
crime, in-
sanity ensu-
ing.

53. Whenever any person shall be confined in any jail charged with a criminal offense, and it shall be suggested to the court, wherein such indictment is pending, that he is insane and incapable of being brought to trial, the court shall empanel a jury to inquire into the truth of the suggestion; and if the jury shall by their verdict find the prisoner to be insane, the judge may cause such prisoner to be removed to the asylum for the insane, or to be otherwise provided for, according to law, to the end that proper means be used for his cure.

Ibid § 10. Tried
on recovery.

54. No such proceedings shall prevent the trial of such person upon his becoming sane.

Ch. 85, § 47.
When convict
to be trans-
ferred to in-
sane asylum.

55. Whenever any convict of the penitentiary shall be found on examination by the superintendent of the insane asylum, the chairman of the board of directors and the physician to the penitentiary, to be a lunatic or otherwise insane, it shall be lawful to transfer said insane convict from the penitentiary to the insane asylum, under such rules and regulations as apply to other insane persons: *provided*, such convict's term of imprisonment unexpired shall not be less than three months.

OHIO.

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101. Fact of insanity to be stated in verdict, proceedings thereon.
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104. Proceedings on inquest.
105. On recovery, governor to order execution.
106. Insane convicts, inquest of lunacy, transfer to asylum.
107. On recovery, remanded to prison.
108. Convicts insane at expiration of sentence, remanded to county.
109. Insane convicts suspension of sentence; execution of sentence on recovery.

1. The governor shall appoint four persons, equally from the two leading political parties, who shall constitute a board of state charities, to serve without compensation. All appointments, at the expiration of the terms of the present incumbents, shall be for four years. The governor shall be ex-officio a member of said board, and the president thereof. Appointments to fill vacancies caused by death, resignation, or removal before the expiration of such terms, may be made for the residue of terms in the same manner as original appointments.

2. The board of state charities shall be provided with a suitable room in the state house. Regular meetings of the board shall be held quarterly, or oftener, if required. It may make such rules and orders for the regulation of its own proceedings as it may deem necessary. It shall investigate the whole system of public charities and correctional institutions of the state, examine into the condition and management thereof, especially of prisons, jails, infir-

Revised Statutes of 1880.
§ 635.
Board of state charities, appointment of, term, and filling vacancies.

§ 636.
Powers and duties of the board.

maries, public hospitals, and asylums, and shall recommend such changes and additional provisions as it may deem necessary for their economical and efficient administration. It shall constitute an advisory board, to whom all plans of public buildings may be referred for suggestion or approval.

3. The said board may appoint a secretary, who shall be paid for his services, in addition to his traveling ex-
 penses, an annual salary of not to exceed twelve hundred dollars, as may be agreed upon by the board: all accounts and expenditures, shall be certified as may be provided by the board, and shall be paid by the treasurer upon an order from the auditor of state.

§ 657.
Appointment
of secretary
and his salary.

4. The board of state charities shall, annually, prepare and print for the use of the legislature, a full and complete report of all its doings during the year preceding, stating fully and in detail all expenses incurred, all officers and agents employed, with a report of the secretary, embracing all the respective proceedings and expenses during the year, and showing the actual condition of all the state institutions coming under its examination, with such suggestions as it may deem necessary and pertinent.

§ 658.
Annual report
of the board.

5. The asylums for the insane shall respectively be designated as follows: that near Cleveland, as the Cleveland asylum for the insane; that near Columbus, as the Columbus asylum for the insane; that near Dayton, as the Dayton asylum for the insane; and that near Athens, as the Athens asylum for the insane; and they shall each be under the charge of a separate board of trustees.

§ 659.
Names of the
asylums for
the insane.

6. The district of the Cleveland asylum, is composed of the counties of Cuyahoga, Ashtabula, Geauga, Lake, Trumbull, Mahoning, Portage, Summit, Columbiana, Stark, Lorain, Medina, and Wayne.

§ 659.
District of the
Cleveland
asylum.

7. The district of the Columbus asylum, is composed of the counties of Williams, Fulton, Defiance, Henry, Lucas, Ottawa, Wood, Sandusky, Erie, Huron, Seneca, Hancock, Wyandot, Crawford, Richland, Ashland, Hardin, Logan, Champaign, Marion, Morrow, Knox, Holmes, Coshoc-ton, Tuscarawas, Carrol, Jefferson, Harrison, Licking, Delaware, Franklin, Fairfield, Pickaway, Fayette, Madison, and Union.

§ 659.
Columbus
asylum.

8. The district of the Dayton asylum, is composed of the
§ 699.
Dayton
asylum. counties of Clarke, Allen, Auglaize, Shelby, Putnam,
 Mercer, Paulding, Van Wert, Miami, Darke, Mont-
 gomery, Butler, Preble, Warren, Greene, Brown, Clinton, and
 Clermont.

9. The district of the Athens asylum, is composed of the
§ 699.
Athens
asylum. counties of Guernsey, Muskingum, Belmont, Mor-
 gan, Noble, Perry, Monroe, Washington, Athens,
 Meigs, Gallia, Lawrence, Jackson, Vinton, Hocking, Ross,
 Pike, Scioto, Highland, and Adams.

10. Each county is entitled to send patients to the asylum
§ 700,
as amended
1881, p. 62.
Counties en-
titled to send
patients ac-
cording to
population. of the district in which such county is situated, in
 proportion to the population of such county; no
 person shall be admitted into either of the asylums
 belonging to the state, except an inhabitant of the
 district in which the asylum is located; and no per-
 son shall be considered an inhabitant, within the meaning of
 this chapter, who has not resided within the state one year
 next preceding the date of his or her application; and no per-
 son is entitled to the benefit of the provisions of this chapter,
 except whose insanity has occurred during the time such person
 has resided in the state; all persons who have been, or may
 hereafter be admitted into either of the asylums for the insane
 belonging to the state, shall be maintained therein at the ex-
 pense of the state, except as provided in section six hundred
 and thirty-one of this title of the revised statutes of Ohio; the
 trustees may direct the discharge of a patient when they may
 deem it expedient; the medical superintendent of each of the
 asylums shall inform the probate judge of the different coun-
 ties comprising the district, monthly, of the quota of patients
 to which each county is entitled, and the number in the asy-
 lum from said county, and the probate judge may, at any
 time, forward an acute case if the quota is not full, and the
 papers and clothing are in compliance with law.

11. If, at any time, either of the asylums cannot accommo-
§ 701.
Patients may
be trans-
ferred to
other
asylums. date the patients of the district to which it is at-
 tached, such patients may be transferred to the asy-
 lum of either of the other districts, which may at
 the time have room for said patients, such transfers
 to be made upon the order of the governor, upon the recom-

mendation of the medical superintendent of the asylum of each district to be thereby affected.

12. The control and management of the state benevolent institutions, including the reform school for boys, and the girls' industrial home, shall be under a board of five trustees to each institution; the trustees shall elect one of their members as president of the board.

§ 634.
as amended
1880, p. 203.
Control of
state benevo-
lent institu-
tions to be
under board
of five trustees.

13. Said trustees may, upon the passage of this act, be appointed as follows, to wit: one for one year, one for two years, one for three years, one for four years and one for five years; or, if the governor deem advisable, the places of those now in office, in any institution, may be filled for the term of five years each, as the term of each expires, and, in either case, as the term of each expires, his successor shall be appointed for the term of five years.

§ 635,
as amended
1880, p. 203.
Trustees, for
what terms
appointed.

14. The trustees of all said institutions shall be appointed by the governor, by and with the advice and consent of the senate, and, except as otherwise provided by law, shall receive no compensation, but shall be entitled to receive their necessary expenses in attending the meetings of their respective boards, or in going to and from their respective institutions on official business necessarily connected therewith, which shall be paid by the disbursing officer of their respective institutions on presentation of an itemized voucher therefor, which shall be filed with the other vouchers of the institution. All vacancies in the office of trustees, whether occasioned by expiration of term, removal, or otherwise, shall be filled in the manner that the original appointment is made, and when occurring at any time before the expiration of the term of appointment, shall be for the balance of the term only.

§ 636,
as amended
1880, p. 203.
Trustees to be
appointed by
governor.

15. Not exceeding two trustees may be residents of the county in which any institution is located. Three shall be a quorum to do business, and two may approve accounts for the payment of current expenses, salaries, and upon contracts previously entered into by the board. Each board shall appoint a secretary, who may or may not be a member of the board, whose duty

§ 637,
as amended
1880 p. 204.
Residence of
trustees;
quorum.
Secretary and
his duties.

it shall be to keep a record of the meetings and of the proceedings of said board, and attest the same.

16. The boards of trustees shall appoint superintendents to the institutions under their charge respectively, who shall hold the office for four years, unless sooner removed by the trustees, and until their successors in office are appointed.

§ 638,
as amended
1880, p. 24.
Trustees to
appoint super-
intendents.

17. The board shall establish such rules and regulations as may be deemed expedient for the government and management of their several institutions, and for securing economy and accountability in all their affairs, and all officers and employes shall strictly observe such rules and regulations, which may be changed at the pleasure of the board.

§ 639.
Trustees to
make rules
for govern-
ment of insti-
tutions.

18. Upon the nomination of superintendents, boards of trustees may appoint stewards, matrons, physicians, assistant physicians, and other needed officers, and may remove such appointees at pleasure. They shall fix the compensation of each, not exceeding the maximum prescribed by law. Either of the officers named in this section may be suspended by the superintendent, he to report the fact, and his reasons therefor, immediately, to the board of trustees.

§ 640.
Appointment
of subordi-
nates.

19. Boards may require of any subordinate officer, or employe, a bond to the state, in such sum, upon such conditions, and with such sureties, as may be approved by the board.

§ 641.
Bond of sub-
ordinates.

20. Trustees may at any time be removed by the governor, by and with the advice and consent of the senate, and during the recess of the senate may be suspended by the governor, who shall report the same to the senate at its next session, and, if the senate so advise and consent, such trustee shall be removed, but otherwise shall be restored to his office. In case of suspension, the governor shall designate some person to perform the duties of such suspended trustee during the suspension aforesaid. The nomination by the governor, and confirmation by the senate, of a trustee to take the place of one in office, shall be held to be a sufficient removal of the trustee whose successor has been thus designated.

§ 642,
as amended
1880, p. 24.
Governor may
remove or sus-
pend trustees.

21. Whenever, in the opinion of any board of trustees, the

interest of the state, and of the institution under their charge, will be subserved thereby, said board shall advertise for sealed bids to furnish at the institution any article or articles needed for its use, at such times and in such quantities as the superintendent may, from time to time, direct; each bid to be accompanied with a bond in such amount as the board shall direct, with good and sufficient surety that the bidder, if the contract is awarded to him, will faithfully fulfil and perform the contract on his part. All such contracts shall be awarded to the lowest bidder, and all provisions and supplies thus furnished shall be of good and wholesome quality, or the same may be rejected by the superintendent. The board shall in all cases reserve the right to reject all bids, and may readvertise or direct the purchase of such article or articles by private contract, under such rules and regulations as they shall prescribe.

22. Each institution shall be visited monthly by at least two of the trustees thereof, and thoroughly examined in all its parts, including the examination and approval of accounts and balance sheets of the financial officer of the institution, and shall also be visited quarterly by a majority of the board for the same purposes, at which meeting there shall be drawn up and placed on record a detailed statement of the condition of the institution, which record shall be subject to the order of the general assembly, and shall at all times be open to the inspection of the committees of the legislature on benevolent institutions.

23. The board of trustees of each institution shall, annually, after the close of the fiscal year, make to the governor a report of their official proceedings during the year, (accompanied with a report by the superintendent, and such others employed in the institution as the trustees may deem important), and of the condition, progress, and wants of the institution, together with an exhibit in detail of the receipts and expenditures, including a full list of all persons employed therein, and amounts paid to, or terms upon which, said persons have been employed during the year. Said report shall also contain a summary statement of all contracts entered into during the year, including the names of all persons interested in such contracts.

§ 643.
Trustees may
order purchase by
contract.

§ 644.
Monthly and
quarterly
visitation by
trustees.

§ 645.
Annual report of
trustees.

24. Special meetings of any board of trustees may be had on the call of the president thereof: of such meeting, each member shall have three days' notice, in writing, together with a summary statement of the purpose for which such meeting is called.

§ 646.
Special meetings.

25. Superintendents shall be persons of acknowledged skill, ability, and experience in their profession, and of good moral character. They shall have control of the affairs of their respective institutions in all their departments, and shall be responsible to the trustees for the efficient management thereof, and for the faithful service of all persons employed therein. They may appoint such teachers, attendants, nurses, servants, or other persons, as may be necessary for the proper management of the institutions, assign them to their respective places and duties, and may, at any time, discharge them from service, keeping a record of the reasons for such discharge. Such appointees shall, however, be subject to discharge by the board. The superintendent of the institution for the deaf and dumb shall have power, by virtue of his office, to solemnize marriages.

§ 647.
Superintendents, their duties: may appoint such subordinates as are necessary to the institution.

26. The steward or other financial officer of each institution, before entering upon the discharge of his duties, shall give bond to the state of Ohio in the sum of ten thousand dollars, with sureties to the satisfaction of the board of trustees, conditioned that he will faithfully and honestly perform the duties of his office, and pay over and account for all moneys and property which may come into his hands by virtue of his office, belonging to the state or to any other person, which bond shall be filed in the office of the treasurer of state. The bond given by said financial officer may be increased at the discretion of and by a vote of the majority of the board.

§ 648,
as amended
1881, p. 199.
Steward to give bond.

27. Under the direction of the superintendent, the financial officer of each institution shall purchase all its supplies, upon the best possible terms, and lowest cash value. He shall also see that the grounds, buildings, and all other property belonging to the state are properly preserved and kept in order, and shall perform such other duties as are assigned him by the superintendent.

§ 649.
Under direction of superintendent to make purchases.

28. The officers named in the preceding section, except as

provided in the following sections, shall keep an accurate account in detail in proper books, which shall be always open to the inspection of the superintendent and trustees, and these books shall be correctly balanced on the fifteenth day of each month, and closed at the end of the fiscal year corresponding with the fiscal year of the state. There shall be prepared and submitted for the inspection of the superintendent and trustees, on the fifteenth day of each month, an original and duplicate balance-sheet taken from the books, which balance-sheet shall show the balance of appropriations in the state treasury, the balance of donations or bequests of money, the balance of proceeds of the rents or sale of any grant or devise of lands or personal property to be applied to the maintenance of insane persons or to the general use of the asylum, or from any source whatever; also, the balance of money belonging to the asylum in the hands of the financial officer or subject to his draft in bank, or in the hands of any person, the receipts of the current month, and to what fund each belongs. These balance sheets shall also show a detailed statement of all receipts, of all disbursements, during the month, together with the name of each payee, and the prices paid. These shall be submitted with the balance sheet, the original bill of purchase, vouchers for the same, and receipts for all other disbursements of whatever kind, which bills of purchase, vouchers, and receipts, after being carefully folded and numbered, shall have endorsed on the back of each the signatures attached thereto, with the day month, and year of payment. After the original and duplicate balance sheet have been endorsed by the superintendent and two of the trustees, the financial officer shall, within ten days thereafter, file the original balance sheet, with the original bills of purchase, vouchers, and receipts pertaining thereto, in the office of the board of trustees, and the duplicate thereof, with his oath endorsed thereon, that it is a full, true, and correct account of his stewardship for the preceding month, according to the best of his knowledge and belief, he shall file in the office of the auditor of state.

§ 630,
as amended
1880, p. 204.
Accounts
shall be kept
in detail, and
monthly
statements
made.

29. In the manner provided in chapter two, there shall be appointed to each insane asylum a competent person as bookkeeper and storekeeper, for the term of two years, unless sooner removed for cause, who

§ 631.
Storekeeper
to insane asy-
lums, and du-
ties.

shall keep all accounts of the asylum, receive and be responsible for all purchases made by the steward and delivered into his keeping, and shall examine, weigh, measure, or guage every article purchased by the steward for the domestic purposes of the asylum, and receipt to the steward for the same, stating quantity and quality; he shall make a monthly report to the medical superintendent and trustees of all articles on hand at the close of the preceding month, the quantity of all articles received during the month, and the quantity of all articles issued during the month to the different departments of the asylum, upon whose order delivered, and to whom delivered, with receipts for the same; he shall give bond in the sum of five thousand dollars, for the faithful performance of his duties, and receive as compensation a sum to be fixed by the trustees, not exceeding six hundred dollars per annum, and his board in the asylum.

30. Matrons under the direction of superintendents, and not otherwise, shall have the general supervision of the domestic arrangements of their institutions, and do all they can for the comfort and welfare of their inmates.

31. Superintendents, stewards, and matrons shall reside in, and devote their entire time to the interests of, the institution with which they are connected.

32. The treasurer of state may, from time to time, advance to the financial officer of each institution, on his own order, approved by the superintendent and a majority of the trustees, and upon a warrant from the auditor of state, to meet current expenses, a sum not exceeding three thousand dollars. No additional order shall be drawn upon the treasurer until the settlement required in section six hundred and fifty shall have been satisfactorily made, and the amount previously drawn fully accounted for.

33. The board of trustees of any benevolent institution of the state is authorized, when, in its judgment, it is necessary for the benefit of such institution, or for the more efficient and proper administration of the charities contemplated by its organization, to acquire any real estate, right of way, or easement in real estate; and when it is unable to agree with the owner or owners thereof upon the price to be paid therefor, to make application

§ 632.
Matron's duties.

§ 633.
Officers to reside in the institution.

§ 634.
Treasurer of state to advance money to steward.

§ 623.
Trustees, etc., of benevolent institutions may appropriate land.

by petition to the probate court of the county in which such institution is located, for the appropriation of such real estate, right of way, or easement, and all proceedings under such application must be conducted under and in accordance with the provisions of existing laws regulating the appropriation of private property by municipal corporations, so far as the same are applicable; but it is optional with such board to refuse to accept the real estate, right of way, or easement, sought to be appropriated, at the price found by the jury, in case it pays the costs and necessary expenses to the property owner of such proceeding, to be fixed by the court on the application of the board; but no such board may institute proceedings to appropriate property unless money has been appropriated by the legislature for procuring such real estate, right of way, or easement.

34. It is unlawful for a person or an incorporated company to erect or carry on, within one hundred and twenty rods of Longview asylum, or any state benevolent institution, any rolling-mill, blast furnace, nail factory, copper smelting works, boiler factory, petroleum oil refinery, slaughter house, tallow chandlery, or glue, soap, or starch factory, or any other works or business productive of unwholesome or noxious odors or gases, or loud noises, which may annoy or endanger the health, or interfere with the proper treatment of the inmates of such institution; but it is lawful for a person to file his petition in the court of common pleas in any county wherein such an institution is located, setting forth his desire to erect or carry on at less distance than that prohibited herein, naming the precise point, any of the establishments hereinbefore named, or any other works which might have a tendency to generate unwholesome or noxious odors, or in any way annoy or endanger the health or prevent the recovery of inmates of said institution, and the reasons and circumstances, in his opinion, why the erection or carrying on thereof would not so annoy or endanger the health or convenience, or endanger the recovery of the inmates of said institution; and shall give notice in some newspaper of general circulation in such county, of the pendency and prayer of such petition, for at least six consecutive weeks previous to the term of the court

§ 624.
Offensive and
noisy fac-
tories not to
be erected or
carried on
within certain
distance of
any benevo-
lent institu-
tion.

next to be held therein, and shall also serve a written notice upon the superintendent of the institution, at least thirty days before the day set for the hearing of the petition; thereupon, if, upon the hearing of the petition, it appears that due notice has been given, as herein required, and the court is of opinion that there exists no good reason why such establishment may not be so erected or carried on, and that by the erection or carrying on thereof at the point named, such institution will sustain no detriment, the court may issue an order granting the prayer of the petitioner; and thereafter he may proceed to locate such establishment or carry on such business at the point named in his petition, the same as if this section had not been passed.

35. No streets, alleys, or roads, shall be laid out, or established through or over the lands belonging to any of the public institutions of the state, without the special permission of the general assembly.

§ 625. No streets, alleys, or roads shall be laid out through lands belonging to benevolent institutions.

36. The board of any benevolent institution shall be capable of receiving by gift, devise, or bequest, moneys, lands, or other property, for the benefit of such institution, or any of its inmates, and to hold and apply the same according to the terms of the donation.

§ 626. Board may receive donations, etc.

37. All books, papers, vouchers, and contracts, pertaining to any of the benevolent institutions, are the property of the state, and shall be carefully preserved.

§ 627. Books, papers etc., belonging to the state.

38. No trustee, [commissioner, director,] or officer of any benevolent institution may be, either directly or indirectly, interested in any purchase for, or contract on behalf of, such institution; and, in addition to the liability of any trustee, commissioner, director, or officer, violating this inhibition to respond in damages for any injury sustained by the institution by his act, he shall be forthwith removed from office.

§ 628. Officers not to be interested in contracts.

39. No trustee, [commissioner, or director,] of any benevolent institution is eligible to the office of superintendent, or steward, of such institution, during the term for which he was appointed, nor within one year after his term expires.

§ 629. Trustees, etc. not eligible for superintendent or steward.

40. Claims due to any benevolent institution may be sued for in the name of the institution.

§ 630. Suits by institutions.

41. Trustees, superintendents, stewards, and assistant physicians of insane hospitals, shall each, before entering upon the discharge of their duties, take an oath, administered by proper authority, to discharge their duties in accordance with law, and to the best of their ability, which oath shall be filed in the office of the governor.

§ 633.
Oath of trustees and officers.

42. Upon the application and recommendation of the board of trustees of any state public institution, the governor shall commission an employe of such institution to be designated by the superintendent, to be a special policeman thereof; and such officer shall take an oath of office and have power to protect the property of such institution, to suppress riots, disturbances, and breaches of the peace, and to enforce all laws for the preservation of good order, and may, upon view or information, without warrant, arrest any person trespassing upon the grounds or destroying the property of such institution, or violating any of the laws of the state, and bring such person so offending before the mayor or any justice of the peace within such township, to be dealt with according to law. This act shall not be construed to authorize an additional employe in any institution.

§ 633 a, act of 1881, p. 214, § 1.
Policeman at state institution.

43. All persons admitted into any institution, except as otherwise provided in chapters relating to particular institutions, shall be maintained at the expense of the state, subject only to the requirement that they shall be neatly and comfortably clothed, and their traveling and incidental expenses paid by themselves, or those having them in charge.

§ 631.
Inmates to be supported at the expense of the state, except as to clothing and traveling and incidentals.

44. If there be a failure in any case to pay incidental expenses, or furnish the necessary clothing, the steward or other financial officer of the institution is hereby authorized to pay such expenses, and furnish the requisite clothing, and pay for the same out of the appropriation for the current expenses of the institution, keeping and reporting a separate account of the same. The account so drawn up, signed by such officer, countersigned by the superintendent, and sealed with the seal of the institution, shall be forwarded to the auditor of the county from which the person came, who shall pay the amount of said bill out of the county funds to the financial officer of the institution, to be audited

§ 632.
How payment enforced.

made out, by the medical witness in attendance, which shall set forth the following:

- (1) Name of patient, with christian name at length.
- (2) Sex, age, married, single or widowed.
- (3) Condition of life, and previous occupation, if any.
- (4) Religious persuasion, so far as known.
- (5) Previous place of abode.
- (6) Whether first attack.
- (7) Age (if known) on first attack.
- (8) When and where previously under treatment.
- (9) Duration of existing attack.
- (10) Supposed cause.
- (11) Whether subject to epilepsy.
- (12) Whether suicidal.
- (13) Whether dangerous to others.
- (14) Facts or symptoms indicating insanity observed by examining physician.
- (15) Physical causes.
- (16) Moral causes.
- (17) Predisposing causes.
- (18) Habits of patient.
- (19) Habits of parents.
- (20) Hereditary, or not.
- (21) Whether patient is free or not from any infectious disease.

48. The probate judge, upon receiving the certificate of the medical witness, made out according to the provisions of the preceding section, shall forthwith apply to the superintendent of the asylum for the insane, situated in the district in which such patient resides: he shall, at the same time, transmit copies, under his official seal, of the certificate of the medical witness, and of his finding in the case: upon receiving the application and certificate, the superintendent shall immediately advise the probate judge whether the patient can be received, and, if so, at what time: the probate judge, when advised that the patient will be received, shall forthwith issue his warrant to the sheriff, or any other suitable person, commanding him to forthwith take charge of and convey such insane person to the asylum: if the probate judge is satisfied from proof, that an assistant is necessary, he may

§ 705.
Application to
the supt. for
admission.

Form of warrant. appoint one person as such assistant: the warrant of the probate judge shall be substantially as follows:

State of Ohio, County, ss.:

Office of the Probate Judge of said County:

To

:

All the proceedings prescribed by law to entitle to be admitted into the asylum for the insane having been had, you are commanded forthwith to take charge of and convey said to the asylum for the insane at , and you are authorized to take , as assistant: after executing this warrant, you will make due return thereof to this office.

Witness my hand and official seal, this day of ,
A. D. ,

Probate Judge.

Upon receiving such patient, the superintendent shall indorse upon the warrant, a receipt substantially as follows:

Asylum for the insane, at ,

A.D. .

Received this day, of , the patient named in the within warrant.

Superintendent.

This warrant, with the receipt of the superintendent thereon, shall be returned to the probate judge who issued it, and shall be filed by him, with the other papers relating to the case: in all cases, the relatives of the insane person shall have a right, if they choose, to convey such insane person to the asylum for the insane, and in such case the warrant shall be directed to one of such relatives, directing him to take another of the relatives as his assistant: if the medical witness does not state in his certificate that the patient is free from all infectious diseases and from vermin, the probate judge shall refuse to make the application to the superintendent, as herein provided, until such certificate is furnished: the relatives of any person charged with insanity, or who is found to be insane, shall, in all cases, have the right to take charge of and keep such insane person charged with insanity, if they desire so to do; and in such case, the probate judge, before whom the inquest has been held, shall deliver such insane person to them.

Right of relatives to convey patient or keep him.

49. When a patient is sent to the asylum for the insane, the probate judge shall see that he is supplied with the proper clothing, and, if not otherwise furnished, he shall furnish such clothing, and in such case, the same shall be paid for upon his certificate and the order of the county auditor, out of the county treasury: for a male patient, the clothing shall be, a coat, vest, and two pairs of pantaloons, all of woollen cloth, two pairs of woollen socks, two pocket handkerchiefs, two cravats, one hat or cap, a pair of shoes or boots, a pair of slippers, three cotton shirts, two pairs of drawers, two undershirts, and an overcoat or other outside garment sufficient to protect him in severe weather: for a female patient, such clothing shall be, two substantial gowns or dresses, two flannel petticoats, two pairs of woollen stockings, one pair of shoes, one pair of slippers, two handkerchiefs, a good bonnet, two cotton chemises, and a large shawl or cloak: in both cases, the clothing shall be new, or as good as new, and the woollens of a dark color; and such clothing shall be delivered in good order, with the patient, to the superintendent, and, without such clothing, the superintendent shall not be bound to receive the patient.

§ 706.
Probate judge shall see that patient has proper clothing.

50. If a person found to be insane cannot be admitted into the asylum, the probate judge shall direct the sheriff of the county, or some other suitable person, to take charge of such insane person until the cause of non-admission is removed, and, if necessary, he may direct the confinement of such insane person in the county infirmary or jail, (but not in the same room with a person charged with or convicted of a crime), as the circumstances require; and if all things needful are not otherwise supplied, he shall furnish them, and in that case, they shall be paid for out of the county treasury, on the certificate of the probate judge; but he shall not, in any case, furnish anything, either in the way of clothing, or for any other purpose, to a person who is not in needy circumstances: if there is no physician regularly employed to attend the jail or infirmary, the probate judge may employ one to attend any idiot or lunatic therein, and the physician so employed shall receive a compensation not exceeding two dollars per day, to be paid out of the county treasury on the certificate of the probate judge.

§ 707.
Proceedings when insane person cannot be admitted to asylum.

51. When an insane person, not entitled to admission into an asylum, is at large, and, being so at large, is dangerous to himself or others, and such fact is established to the satisfaction of the probate judge, he shall immediately order such lunatic to be confined and provided for, as directed by the next preceding section; and when a person is so confined, and the attending physician certifies that such person is restored to reason, or that it is not necessary longer to confine him, or if his friends agree to take the care of him, the probate judge shall immediately order his discharge.

§ 708.
When a lunatic at large is dangerous, he may be confined.

52. A patient may be discharged from an asylum for the insane upon the application of the superintendent to one of the trustees, and order of such trustee: incurable and harmless patients may be discharged when such discharge is necessary to make room for a recent case from the same county; and when an order is made out for the removal of a patient from an asylum for the insane, the superintendent shall forthwith give notice thereof, under seal of the asylum, to the probate judge of the county from which such patient was sent, and thereupon such probate judge shall forthwith issue his warrant to the sheriff or some other suitable person (giving the relatives of the patient the preference) which warrant shall be substantially as follows:

§ 709.
How a patient may be discharged.

The State of Ohio, County, ss.:

Office of the Probate Judge of said county:

The proper authority having directed , a patient from this county, in the asylum for the insane, at , to be removed therefrom, you are commanded forthwith to remove the patient and return him to township, in this county, of which he is an inhabitant.

Witness my hand and official seal, this day of ,
A. D. 18 .

A. B., Probate Judge.

Upon the receipt of such warrant, the person to whom it is directed shall forthwith execute it, and return it to the probate judge by whom it was issued, and the probate judge shall ascertain and fix the allowance to the person executing such warrant for expenses and fees, and certify the same to the county auditor, who shall draw his warrant therefor on the county treasurer.

53. The superintendent shall, immediately after the removal, death, escape, or discharge of any patient or return of an escaped patient, report the same to the probate judge of the county from which such patient was committed, and in case of death he shall notify one or more of the nearest relatives of such deceased patient, if known to him, either by letter or telegraph, as to him may seem best, and if the place of residence of such relatives is unknown to the superintendent, the probate judge, immediately upon receiving notification, shall in the speediest manner possible, notify such relations, "if known to him," and when a patient is discharged as cured, the superintendent may furnish such patient with suitable clothing and a sufficient sum of money to pay the actual traveling expenses of such patient to the township in the county from which he or she was sent, not in any case exceeding twenty dollars.

§ 710.
as amended
1881, p. 102.
Superintendent
to report
death, escape,
etc., to probate
judge.

54. If application is made to an asylum for the insane for the admission of more patients than such institution can accommodate, a selection shall be made as follows:

1. Recent cases, that is, where the disease is of less than one year's duration, shall have the preference over all others in the same county:
2. chronic cases, that is, when the disease is of more than one year's duration, presenting the most favorable prospect of recovery, shall be next preferred:
3. those for whom applications [have been] longest on file, other things being equal, shall next be preferred:
4. no county can have in any institution more than its just proportion according to its population, except in cases where some other county in the same asylum district has not a sufficient number of patients to fill up its proportion: in such cases, the superintendent may admit from a county more than its just proportion, giving preference to patients applying as herein provided.

When patient
is discharged,
superintendent
may furnish
clothing.

§ 711.
How patient
selected in
certain cases.

55. When a patient discharged from an asylum for the insane as cured, again becomes insane, and a respectable physician files with the probate judge of the county of which the insane person is an inhabitant, an affidavit setting forth the fact of the recurrence of the disease, and such other facts relating thereto as he deems proper, the probate judge shall forthwith transmit a copy of such affi-

§ 712.
Proceedings
when a per-
son becomes
again insane.

davit, authenticated by his official seal, to the superintendent of the proper asylum, and thereupon the same proceeding shall be had as provided in this chapter for persons found to be insane upon inquest held for that purpose.

56. All persons confined as insane shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity shall be decided at the hearing; and if the judge decides that the person is insane, such decision is no bar to the issuing of the writ a second time, when it is alleged that such person has been restored to reason.

§ 713.
Benefit of
habeas
corpus.

57. In all cases of inquest held under the provisions of this chapter, the probate judge shall file and preserve all papers left with him, and shall make such entries upon his docket as will, together with the papers so filed, preserve a perfect record of each case tried by him.

§ 714.
Papers in case
of inquest
shall be pre-
served.

58. If a patient escapes from an asylum for the insane, and returns to the county whence he was committed, the sheriff of such county, when notified by the superintendent, shall forthwith arrest and return him to the asylum, for which service the sheriff shall be allowed and paid such fees as are allowed by law for the commitment of insane persons to the asylums, which fees shall be paid by the steward on the certificate of the superintendent.

§ 716.
Patient escap-
ing shall be
arrested.

59. If the friends of a patient ask his discharge from the asylum, the superintendent may require a bond to be executed to the state, in such sum and with such sureties as he deems proper, conditioned for the safe keeping of such patient; but no patient who is charged with or convicted of homicide shall be discharged without the consent of the superintendent and the board of trustees of such asylum.

§ 717.
Bond re-
quired when
friends of a
patient want
him dis-
charged.

60. Prosecuting attorneys shall attend to all suits instituted on behalf of the asylums for the insane, and shall be entitled to a compensation of five per cent. on all sums collected for the same.

§ 718.
Prosecuting
attorneys
shall attend
to suits.

61. The taxable costs and expenses to be paid under the provisions of this chapter shall be as follows: to the probate judge with whom the affidavit is filed, the sum of two dollars for holding an inquest; for each warrant,

§ 719.
Costs in cases
of inquests.

certificate, or subpoena, he necessarily issues, the same fees as are allowed by law to the clerk of the court of common pleas for similar services; and the amount of postage on all communications to and from the superintendent which the judge is required to pay; to the medical witness who makes out the certificate, two dollars, and witness fees, such as are allowed by law in other cases; to the witnesses and constables, the same fees as are allowed by law for like services in other cases; to each person employed by the probate judge to commit a lunatic to the county infirmary, seventy-five cents per day; to the superintendent of the county infirmary or jailer, for keeping an idiot or insane person, thirty-five cents per day; to the sheriff or other person than an assistant, for taking an insane person to the asylum, or removing one therefrom upon the warrant of the probate judge, mileage at the rate of ten cents per mile, going and returning, and seventy-five cents per day for the support of each patient, on his journey to or from the asylum, and to each assistant five cents per mile, and nothing more; the number of miles to be computed in all cases by the nearest route traveled: the costs specified in this section shall be paid out of the county treasury, upon the certificate of the probate judge.

62. The terms "insane" and "lunatic," as used in this chapter, include every species of insanity or mental derangement; the term "idiot" is restricted to a person § 720. Definition of terms. foolish from birth, one supposed to be naturally without a mind; a person with a family is one who has a wife and child or either; the words "needy circumstances," when applied to a person without a family, means one whose estate, after the payment of his debts, and excluding from the estimate such part of his estate as is exempt from execution, is worth less in cash than five hundred dollars; and the same words, when applied to a person having a family, means one whose estate, estimated as aforesaid, is worth less in cash, after the payment of his debts and the support of his family for one year, than one thousand dollars; *provided*, that when the words are applied to a married woman, her estate, and that of her husband, shall be estimated, as aforesaid, and the amount shall determine the question whether she be in needy circumstances or not, within the meaning of this chapter.

63. When the probate judge issues his warrant for the removal to an asylum for the insane of any insane person, temporarily committed to a county infirmary, the certificate of the superintendent of such infirmary, or the physician in charge thereof, that the condition of such insane person, by recovery or otherwise, has so changed as to make it unsuitable to remove him to the asylum, shall be a sufficient return to the warrant; and the superintendent of the infirmary is authorized, in case such person has recovered, to discharge him therefrom.

64. The hospital for the insane in the county of Hamilton shall be called Longview asylum, and shall be governed and conducted by a board of five directors, superintendent, assistant physicians, steward, and other needed officer.

65. The directors of the asylum must be residents of Hamilton county, and shall be appointed as follows: two by the governor, by and with the advice and consent of the senate, one by the judges of the court of common pleas of Hamilton county, one by the judge of the probate court of said county, and one by the commissioners thereof; and they shall hold their office for the term of five years, and until their successors are appointed and qualified; *provided*, that the directors in office, when this chapter takes effect, shall hold for the terms for which they were, respectively, appointed, and their places shall, on expiration of term, be filled by the same authorities by which they were, respectively, appointed; *provided, further*, that in case of a vacancy in said board by death, resignation, or otherwise, the authority having appointed the member whose place has become vacant shall appoint another member for the unexpired term.

66. The directors of this asylum shall discharge their duties without compensation, except that they shall be paid for their loss of time and necessary expenses during the time they are actually engaged therein, such payment not to exceed the sum of two hundred and fifty dollars per annum, which shall be paid out of the county treasury, on the allowance of the county commissioners, upon the warrant of the county auditor.

67. The directors shall elect a president and secretary from

their own number, and they shall appoint a superintendent for the asylum, and, on the nomination of such superintendent, a steward, assistant physician, and such other officers and employes as are necessary; and the salary and compensation of these officers, and all others who are employed in the asylum, shall remain as they now are; but the directors may, at any time, change, and fix the salaries and compensation of these persons, subject to the approval of the commissioners of Hamilton county.

§ 725.
Shall elect president and secretary, and appoint superintendent, etc.

68. One or more of the directors shall visit the asylum, weekly, and all of them monthly, and they shall, monthly, with the superintendent, examine the accounts of the steward, and certify their approval, or otherwise on the same page with his monthly balances.

§ 726.
Shall visit the asylum and approve accounts of steward.

69. The directors shall make a record of their proceedings at all meetings, in a book to be kept for that purpose; and, at their annual meeting, they shall make a report to the governor of the condition and wants of the asylum, which shall be accompanied by a full and accurate report of the superintendent, which shall show the annual cost per capita of the inmates, and the percentage of admissions, discharges, and cures, and a detailed account of all the moneys received and paid out by the steward, and, at the same time, they shall transmit a copy of their report and the accompanying documents to the board of public works of the city of Cincinnati, and another to the board of county commissioners of Hamilton county.

§ 727.
Shall make record of their proceedings.

70. The directors shall hold their annual meeting on the first Tuesday of November, in each year, at the asylum: special meetings for the appointment of resident officers, or for the transaction of general business, may be held in any convenient place, upon the written request of the president, or any two members of the board, which written request shall be made of each other director three days before the time appointed for such meetings, and shall also contain a statement of the object for which the meeting is called: three members of the board shall constitute a quorum for the transaction of business, and no order, resolution, or appointment of the board, shall be

§ 728.
Annual meeting; when held; quorum, etc.

valid, unless concurred in by at least three members, and entered on the record.

71. The board of directors may remove any of the resident officers of the institution, except the superintendent, and may remove the superintendent for gross neglect or refusal to discharge the duties devolving upon him, or for incompetency or misconduct, rendering it improper for him to remain longer at the head of the asylum, and may direct the discharge of a patient, upon the recommendation of the superintendent.

§ 729.
Directors may
remove officers.

72. When there are charges preferred against the superintendent, or any other resident officer of the institution, the board of directors may immediately suspend the superintendent, or officer against whom such charges are made, and proceed to investigate the same; and the board shall have power to compel the attendance of witnesses, and the production of books and papers, and the president of the board shall have authority to administer the necessary oaths; and the officer so suspended shall immediately deliver up all books, papers, keys, and other property of the asylum in his possession, to any person designated by the board of directors; and the failure or refusal of the superintendent, or any other officer, to comply with such an order of the board of directors, shall of itself and alone be sufficient cause for his removal from office.

§ 730.
May suspend
officers when
charges are
preferred.

73. The superintendent of the asylum must be a physician of acknowledged skill and ability in his profession: he shall be the chief executive officer of the institution, shall reside therein, and shall hold his office for the term of five years, unless sooner removed by the board of directors, as provided in the two preceding sections; he shall have the entire control of the medical, moral, and dietetic treatment of the patients, and shall see that the other resident officers of the institution faithfully and diligently discharge their respective duties; he shall employ or direct the employment of attendants, nurses, servants, and such other persons as he deems necessary for the efficient and economical management of the asylum, assign them their respective places and duties, and he may at any time discharge or direct the steward to discharge any of them from service;

§ 731.
Superintendent;
his qualifications,
duties, etc.

and he may remove or suspend any of the resident officers or employes of the institution; he to report the fact, and his reasons therefor, immediately to the board of directors.

74. The assistant physicians shall be medical men of such character and qualifications as to be able to perform the medical duties of the superintendent. § 732.
Assistant
physicians.

75. The steward, under the direction of the superintendent, shall keep the accounts, pay those employed in and about the asylum, and have a personal superintendence of the farm, garden, and grounds; and perform such duties as are assigned him by the superintendent or board of directors; and (except sums received from the county treasury, on the warrant of the county auditor), he shall pay into the county treasury all moneys received by him, from whatever source derived, which moneys shall be credited by the treasurer of the county to the asylum fund. § 733.
Duties of the
steward.

76. The steward shall execute a bond, with two or more sufficient sureties, to be approved by the directors, in the sum of five thousand dollars, conditioned that he will faithfully perform the duties of his office, and pay over and account for all moneys that come into his hands as such steward. § 734.
Steward's
bond.

77. The county auditor shall, from time to time, upon the order of a majority of the directors, issue a warrant upon the county treasurer for the payment of a sum not exceeding two thousand dollars, to meet current expenses: the steward shall keep an accurate account, in detail, in a proper book, always open to the inspection of the directors and superintendent, of all sums paid out of the money so advanced by the treasurer, and shall settle the same with the superintendent and directors, monthly, or oftener, if required, and, upon such settlement, shall account for all moneys received by him, a copy of which shall be filed with said auditor before another warrant is issued. § 735.
Further
duties of
steward.

78. The asylum shall be open for the admission of all insane persons over the age of seven years, having a legal settlement in the county of Hamilton; but no person shall be entitled to admission unless he became insane after acquiring a legal settlement therein. § 736.
Qualifications
for admission.

79. All inmates of the asylum shall be maintained therein

§ 737.
Inmates shall
be maintained
at the ex-
pense of the
county.

at the expense of Hamilton county; but the superintendent shall enter in a book kept for that purpose, the names of all patients whose friends desire to contribute to all or any part of their expenses; and, on the first Monday of each month, he shall make out bills against such patients, severally, for the amount due the asylum to date, and shall present the same to the steward, who shall collect, and place the money so collected to the credit of the asylum into the county treasury.

80. For the admission of inmates into this asylum, the following proceedings shall be had: some resident citizen of Hamilton county must file with the probate judge thereof an affidavit, substantially as follows:

§ 738.
Proceedings
to obtain ad-
mission.

The State of Ohio, Hamilton County, ss.:

The undersigned, a citizen of Hamilton county, Ohio, being sworn, says that he believes to be insane, and a fit subject for the lunatic asylum: he is a resident of Hamilton county, has a legal settlement in township. These facts are known by and (naming at least two persons).

81. When this affidavit is filed, the probate judge shall

§ 739.
Warrant, etc.

forthwith issue his warrant to the sheriff, or some other suitable person, commanding him to bring the person alleged to be insane before him, on a day in such warrant named, which shall not be more than five days after the affidavit was filed, and shall immediately issue subpoenas to such witnesses as are named in the affidavit, and a physician to be designated by the probate judge, commanding them to appear before him, on the return day of the warrant; and if any person disputes the insanity of the person so charged, the judge shall issue subpoenas for such persons as are demanded on his behalf.

82. At the time appointed (unless for good cause the investigation is adjourned), the judge shall proceed to examine the witnesses in attendance, and if, upon the hearing of the testimony, such judge is satisfied that the person so charged is insane, and is included in the class enumerated in this chapter, he shall cause a certificate to be made out by the physician, setting forth the name, age, and residence of the patient, with a concise history of the case, medical treatment

§ 740.
Examination,
etc.

pursued, supposed cause of the disease, and such other information as is deemed useful.

83. The probate judge, upon receiving the certificate aforesaid, shall forthwith transmit a copy thereof, and his finding in the case, under his official seal, to some suitable person (giving the relatives of such insane person the preference), who shall immediately take charge of and convey such patient to the asylum, and return therefor, to the probate judge, a receipt of the superintendent, to be filed with the other papers in the case.

§ 741.
Patients shall
be taken to
the asylum,
how.

84. Any inmate of the institution may, at any time, be discharged therefrom by the superintendent, with the consent of the directors; and when an insane person of the asylum is cured, the superintendent shall discharge him forthwith; and the superintendent may furnish him suitable clothing and a sum of money not exceeding ten dollars, if deemed necessary; when pauper idiots and harmless, incurable insane persons are discharged, the superintendent shall issue his warrant to some suitable person, which warrant shall be substantially as follows:

§ 742,
as amended
1883, p. 103.
Proceedings
for the dis-
charge of a
patient.

Form of warrant.

The State of Ohio, Hamilton County, ss.:

The proper authority having directed the discharge of A. B., an inmate of Longview asylum, you are hereby commanded to remove said inmate to the county infirmary.

Witness my hand and official seal this day of , A.D. .

A. B., Superintendent.

Upon the receipt of such warrant, the person to whom it is directed shall forthwith execute it, and the superintendent of the county infirmary shall receive such inmate; and should any such person so sent to the county infirmary become unmanageable, the superintendent of the infirmary may return him to Longview asylum, upon the approval of the board of infirmary directors, and the cost of maintaining any such person thus returned, received from Longview asylum in the county infirmary, shall be paid out of the asylum fund, and may not exceed the average cost of maintaining the inmates of the infirmary; *provided, however*, that all such discharged inmates, under the provisions of this act, who may have been sent to Longview asylum from territory within the corporate limits of the city of Cincinnati, shall be sent to, and received

by, the superintendent of the city infirmary as an inmate thereof.

85. In each case of inquest, held under the provisions of this chapter, the probate judge shall file and carefully preserve all papers relating thereto, and shall make such entries as will, together with the papers filed, preserve a complete record thereof.

§ 743.
Papers in case
of inquest
shall be pre-
served.

86. If an inmate escape from the asylum, the superintendent shall forthwith cause him to be arrested and returned; and if an inmate die, the superintendent shall notify the relatives, if known to him.

§ 744.
Inmate escap-
ing shall be
returned.

87. For all debts due the asylum, an action may be maintained in the name of the county of Hamilton; and all moneys due the asylum shall, upon the warrant of the county auditor, be paid into the county treasury, for the use of the institution.

§ 745.
Action for
debts due the
asylum.

88. The prosecuting attorney of Hamilton county shall attend to all suits instituted on behalf of the asylum, and shall be entitled to five per cent. on all sums collected by him, as compensation therefor.

§ 746.
Prosecuting
attorney shall
attend suits.

89. The superintendent of the asylum shall provide an official seal therefor, upon which shall be the words "Longview asylum, state of Ohio," and the impression of such seal to a certificate, order, or account, to which the name of the superintendent is attached, shall be prima facie evidence that such name is the handwriting and proper signature of the superintendent.

§ 747.
Official seal of
the asylum.

90. The taxable costs and expenses to be paid under the provisions of this chapter shall be as follows: to the probate judge, for filing affidavit and holding inquest, the sum of two dollars; to the person making affidavit as required for an inquest, two dollars, and witness fees as are allowed in other cases; to witnesses, constables, and sheriffs, the same fees as are allowed for like services in other cases.

§ 748.
Costs and ex-
penses, how
paid.

91. If the probate judge, or any other person charged with duties under this chapter, neglects or refuses to discharge any such duties, he shall forfeit a sum not exceeding fifty dollars, to be recovered for the use and benefit of the asylum, in a civil action, conducted in the name of the

§ 749.
Penalty.

county of Hamilton, as in case of a debt due the asylum, or may be removed from his office in the same manner as for any other neglect of duty.

92. The asylum shall be supported, and the salaries of its officers paid, from a fund consisting of all such moneys as now are, or hereafter may, come into the treasury of the county, from whatever source, applicable to the support of insane persons in the county, and of such appropriations as are, from time to time, made by the state for the support of this asylum, which appropriation shall bear the same proportion to the appropriations for the other lunatic asylums of the state, as the population of Hamilton county bears to the population of the state, exclusive of said county, as ascertained by the federal census immediately preceding the making of such appropriations.

93. To aid in the support of this institution, the commissioners of Hamilton county are authorized to levy a tax, not exceeding three-tenths of one mill on the dollar, upon the taxable property of said county.

§ 750.
Asylum, how
to be sup-
ported.

§ 751.
County com-
missioners
may levy tax.

94. The commissioners of every county in which there now is, or may hereafter be, established a county infirmary, shall provide separate apartments, in or adjoining such infirmary, for the safe keeping and treatment of lunatics and idiots, resident in such county, and who have not been and cannot be received into either of the lunatic asylums, or who have been discharged therefrom.

§ 970.
Apartments
for lunatics
in county in-
firmmary.

95. The directors of the county infirmary, as soon as apartments are provided, as aforesaid, shall admit therein all lunatics and idiots who are or may become a charge upon their county, and provide for their safe keeping, support, and treatment, in such manner as they now do for the poor under their care, and also shall receive and provide for the safe keeping, support, and treatment of such lunatics and idiots, in their county, who, by their guardians or friends may apply for admission, as pay patients, under such rules and regulations as the directors prescribe.

§ 971.
Who admit-
ted and how
provided for.

96. All lunatics and idiots confined in the jail of any county, in which an apartment or apartments in the county infirmary have been provided, as aforesaid, for their reception, shall be transferred by the

§ 972.
Those in jail
to be trans-
ferred to in-
firmmary.

jailer or other proper person to the county infirmary of the proper county, to be kept, supported, and treated, as hereinbefore provided.

97. Nothing in the preceding sections shall be so construed as to prevent any person, whether in a county infirmary or otherwise, from being received into a lunatic asylum of the state, if, by any law, such person would be otherwise entitled to such reception.

§ 973.
Construction
of this chap-
ter.

98. If, at any time before the indictment of a person confined in jail, charged with an offense, notice in writing be given by any citizen, to the sheriff or jailer, that such person was insane or an idiot at the time the offense was committed, or has since become insane, the sheriff or jailer shall forthwith give the notices, and an examining court shall be held, as provided in the preceding section;* and if the judge find that such person was an idiot when he committed the offense, or was then and still is insane, or afterwards became and still is insane, he shall, at his discretion, proceed as required by law after inquest held.

§ 7166.
When ac-
cused was in-
sane or an
idiot at com-
mission of
offense.

99. When the attorney of a person indicted for an offense suggests to the court in which the indictment is pending, at any time before sentence, that such person is not then sane, and a certificate of a respectable physician to the same effect is presented to the court, the court shall order a jury to be empaneled, to try whether or not the accused is sane at the time of such empaneling; thereupon a time shall be fixed for a trial, and a jury shall be drawn from the jury-box, and a venire issued, unless the prosecuting attorney, or the attorney of the accused, demand a struck jury, in which case such jury shall be selected and summoned as required by law; the jury shall be sworn to try the question whether the accused is or is not sane, and a true verdict give according to the law and the evidence; and on the trial the accused shall hold the affirmative; if three-fourths of the jurors agree upon a verdict, their finding may be returned as the verdict of the jury; and a new trial may be granted on the application of the attorney of the accused, for the causes and in the manner provided in this title.

§ 7240.
Whether or
not accused is
insane may be
tried by a spe-
cial jury.

100. If three-fourths of the jurors do not agree, or the ver-

* The judge to call witnesses including person charged.

dict be set aside, another jury shall be empaneled to try the question; if the jury find the accused to be sane, and no trial has been had on the indictment, a trial shall be had thereon as if the question had not been tried; if the jury find him to be not sane, that fact shall be certified by the clerk to the probate judge, and the accused shall, until restored to reason, be dealt with by such judge as upon inquest had; if he be discharged, the bond given for his support and safe keeping shall contain a condition that he shall, when restored to reason, answer to the offense charged in the indictment, or of which he has been convicted, at the next term of the court thereafter, and abide the order of the court; and such lunatic, when restored to reason, may be prosecuted for an offense committed by him previous to such insanity, or sentenced on a conviction had previous thereto.

§ 7241.
Proceedings
on verdict of
such jury.

101. When a person tried upon an indictment for an offense is acquitted on the sole ground that he was insane that fact shall be found by the jury in the verdict, and it shall be certified by the clerk to the probate judge; and the defendant shall not be discharged, but forthwith delivered to the probate judge, to be proceeded against upon the charge of lunacy, and the verdict shall be prima facie evidence of his insanity.

§ 7242.
Proceedings
when accused
is acquitted
on the sole
ground of
insanity.

102. When a lunatic confined in an asylum or an infirmary, under the provisions of section seventy-one hundred and sixty-six or section seventy-two hundred and forty, is restored to reason, the superintendent having him in charge shall notify the prosecuting attorney of the proper county of the fact, who shall, within a reasonable time, cause the clerk of the court to issue a capias, upon which the accused may be arrested and committed to the jail of the county, to answer the offense charged against him; and in default of such capias, the superintendent shall discharge him.

§ 7243.
Proceedings
when accused
is restored to
reason.

103. If a convict sentenced to death appear to be insane, the sheriff shall forthwith give notice thereof to a judge of the court of common pleas of the judicial district, and shall summon a jury of twelve impartial men to inquire into such insanity, at a time and place to be fixed by the judge, and shall give immediate notice thereof to the prosecuting attorney.

§ 7345.
If convict ap-
pear insane,
inquest to be
had.

104. The judge, clerk of the court, and prosecuting attorney shall attend the inquiry; witnesses may be produced and examined before the jury; the finding shall be in writing, signed by the jury; if it be found that the convict is insane, the judge shall suspend the execution, until the sheriff receives a warrant from the governor directing the same; and the finding of the jury and order of the judge, certified by the judge, shall be entered on the journal of the court by the clerk.

§ 7346.
Proceedings
on the in-
quest.

105. The sheriff shall immediately transmit a certified copy of such finding to the governor, who may, as soon as he is convinced that the convict has become of sound mind, issue a warrant appointing a time for his execution.

§ 7347.
When convict
restored, gov-
ernor to order
execution.

106. When a convict becomes insane the warden shall give notice to the physician for the prison, and the superintendent of the Columbus asylum for the insane, who, upon the receipt of such notice, shall forthwith examine such convict, and if upon such examination they are of opinion that the convict is insane, they shall certify the same to the warden, who shall forthwith put such lunatic or insane convict in the department prepared for that purpose.

§ 7428.
Inquest on lu-
nacy on con-
vict.

107. The physician, together with the superintendent of the asylum, shall give such medical and surgical aid to the lunatic or insane convicts as the nature of their cases require; and whenever any lunatic or insane convict is adjudged to be restored to his proper mind, or so far restored that it is considered safe to put him at labor under his sentence, and it is so certified by the physician and superintendent, the warden shall again put him at hard labor according to his sentence.

§ 7429.
Restored con-
vict to be re-
turned to la-
bor.

108. If a convict be insane at the time of the expiration of his sentence, the warden shall give notice, in writing, to the probate judge of the county from which he was sent, of the fact of such insanity, and such judge shall forthwith issue his warrant to the sheriff of such county commanding him to remove such insane convict, and return him to such county; upon receipt of such warrant the sheriff shall execute the same forthwith, and make return thereof to the probate judge by whom it was issued, and thereupon the

§ 7430.
When con-
victs insane at
expiration of
sentence.

probate judge shall immediately order such insane person to be confined, or otherwise disposed of and provided for, as directed by law; and the sheriff shall receive the same compensation as for transferring a prisoner to the penitentiary, and the auditor of the county shall draw an order upon the county treasurer for the amount; if any probate judge, after having been so notified by the warden, neglect to issue his warrant, as herein provided, or if any sheriff neglect to remove such insane convict, as required by the provisions of this section, the warden shall cause such insane convict to be removed, and returned to the county from which he was sent, in charge of an officer of the penitentiary, or some other suitable person; and the cost of such removal shall be paid out of the county treasury, upon the warrant of the county auditor.

109. If a convict, at any time before the full execution of the sentence, be represented to the governor to be insane, the governor shall inquire into the facts, and if, in his opinion, they require the exercise of executive clemency, he may, without notice, pardon the convict, or commute the sentence, or suspend its execution for a definite time, or, from time to time, as he may deem proper; and the governor, in case of commutation or suspension may, by his warrant to the proper officer, order the convict to be confined in the penitentiary or [a] jail or conveyed to an asylum for insane for treatment. If the sentence be suspended and the convict recover his reason, the sentence, so far as not before executed, shall, at the termination of the suspension, be fully executed.

§ 91.
As to a convict
who becomes
insane.

OREGON.

GOVERNMENT OF ASYLUM.

1. Board of trustees, title; may hold property in trust, powers and duties, records.
2. Superintendent and officers, appointment; bond of superintendent; salaries, duties.
3. Trustees to receive no compensation.
4. Private secretary of governor, ex-officio secretary.
5. Superintendent, powers and duties, trustees and officers not to be interested in contracts.
6. Accounts of superintendent.
7. Pay-roll, warrants how drawn.
8. Bills for support submitted to directors.

ADMISSION AND DISCHARGE.

9. Applications for admission, physician's certificate, commitment, proceedings.
10. Proceedings to be recorded; warrant; commitment to asylum or care of friends, expenses borne by state, limit of; fees for examination.

CRIMINAL INSANE.

11. Insane convicts, investigation of insanity, transfer to asylum.
12. Fact of insanity to be stated in verdict of acquittal, commitment.
13. Fact of insanity, degree of proof.

1. There is hereby created a board of trustees, consisting of the governor, who shall be president of the board, the secretary of state and state treasurer. The board of trustees, created under the provisions of this act, shall be known by the name and style of the "Board of Trustees of the Oregon State Insane Asylum," and by that name they and their successors shall be known in law, may receive, take and hold property, both real and personal, in trust for the state, and for the use and benefit of said asylum. They shall have power to govern, manage and administer the affairs of the asylum, make and adopt by-laws for their government and the government of the asylum; they shall appoint all officers and employes of said asylum, prescribe their duties, and remove them when in their judgment the good of the public service requires it; they shall cause to be kept a full and correct record of their proceedings, which shall be open at all times to the inspection of any citizen desiring to examine the same; they shall hold stated meetings at the seat of government monthly; a majority of the board shall constitute a quorum to do business; they shall visit the

Act of 1882,
p. 23, § 1.
Board of trustees established.

Powers and duties.

asylum once in three (3) months, and keep themselves constantly advised of all items of labor and expense, and the condition of the buildings and the property of the asylum; they shall submit to the legislative assembly, biennially, on or before the fourth day preceding the regular session of the legislature, a report showing the receipts and expenditures, the general condition of the asylum, the number of patients under treatment during the two preceding years (up to the first Monday of the month next preceding the meeting of the legislature), and such other matters, touching the general affairs of the asylum, as they deem advisable.

Report of general condition of asylum to be made to legislature.

2. The board of trustees shall appoint a medical superintendent, who shall serve four years, or during good behavior, and on his nomination one or two assistant physicians, and other officers, according to the requirements of the institution, each of whom shall hold office for four years, or during good behavior, and until his successor is appointed and qualified. The superintendent before entering upon the duties of his office shall enter into a bond to the state of Oregon, with four or more good and sufficient sureties, to be approved by the board, in the sum of ten thousand dollars, conditioned that he shall faithfully discharge his duties as such officer, which bond shall be filed in the office of the secretary of state. The salary of the superintendent shall be twenty-five hundred (2,500) dollars per annum, and that of the first assistant eighteen hundred (1,800) dollars per annum, and that of the second assistant twelve hundred (1,200) dollars per annum, and each of them shall be furnished room, household furniture, provisions, fuel and light, at, and from the supplies of the asylum. The superintendent shall reside at the asylum, shall be a well educated physician, a regular graduate in medicine, and shall have practiced at least five years from date of diploma. All the assistant physicians shall reside at the asylum and shall be regular graduates in medicine. The superintendent, chief and assistant physicians, and all other officers and employes in and about said asylum shall be subject to removal by the board of trustees at any time for cause. The superintendent and assistant physicians shall give their entire time and attention to

Ibid § 2.
Officers.

Compensation.

Duties and qualifications.

promote the best interests of the patients in said asylum. Their duties, not specified in this act, shall be prescribed in the by-laws of the board of trustees.

3. The trustees shall be paid their necessary expenses incurred in the discharge of their duties under this act; such payments to be made out of any money appropriated for the current expenses of the asylum, by an order drawn by the secretary of the board; provided, such compensation does not exceed one hundred (100) dollars per annum for each member of the board.

4. The private secretary of the governor shall act as secretary of the board of trustees.

5. The superintendent shall be the executive officer of the asylum, under the regulations and by-laws of the board of trustees. He shall have control of the patients, prescribe or direct their treatment, adopt sanitary measures for their welfare, and discharge such as in his opinion have permanently recovered their reason, or such other patients as the best interests of the state and the institution require. He shall maintain discipline among the subordinate officers and employes, and enforce obedience to the laws, rules and regulations adopted for the government of the institution, and is empowered to discharge any employe or attendant for violation of the laws or rules of the asylum and submit the same to the board of trustees immediately for their approval. He shall estimate and report to the board of trustees the amount, kind and quality of furniture and household furnishing goods, provisions, fuel, forage, clothing, and other material required for six months ending on the first day of June and December of each year, and the trustees shall then advertise when practical for four successive weeks for contracts for furnishing said supplies, or so much thereof as they shall deem necessary. All contracts shall be awarded to the lowest bidder or bidders, upon their giving to the board of trustees satisfactory security for the faithful performance of the same. The board of trustees shall have the power to reject any and all bids, and in no case shall more than the customary price in open market be paid for supplies, or other articles purchased on account of said asylum. Necessary expenditures, other than those for provisions, fuel, forage, clothing and furniture and household fur-

nishing goods, may be made by the superintendent, subject to the approval of the board; *provided*, that nothing in this section shall prevent the board from purchasing contingent supplies at the lowest market rates, and, *provided, further*, that neither the board of trustees, or the superintendent or any employe of the institution shall be in any wise pecuniarily interested in any contract for the purchase of supplies for said asylum, or services performed by other persons in or about the asylum.

Board of trustees, officers and employes not to be pecuniarily interested in contracts.

6. The superintendent shall cause accurate and careful accounts to be kept of the daily expenditures, of all articles of stores and property placed in his charge, and shall at the end of each month submit the same to the board of trustees for their inspection, and on each daily report shall be shown the number of persons fed and lodged in the asylum, whether as officer, employe or patient. A monthly report of the same character shall be made to the trustees.

Ibid § 6.
Sup't shall cause accounts to be kept.

7. At the end of each month the superintendent shall cause a pay-roll to be made which shall show the name of each person employed in or about the asylum, giving the capacity in which each is employed, the rate of salary or wages and the amount due each; upon receiving this pay-roll, duly certified by the superintendent and audited by the board, the secretary of the state shall draw his warrant on the treasurer in payment of the several amounts audited and allowed by the board, and in favor of the person to whom the same is allowed, in like manner as other warrants are drawn for the payment of claims against the state.

Ibid § 7.
Payment of employes.

8. All bills on account of the support and maintenance of the asylum shall be presented to the superintendent for his approval, and shall be by him submitted to the board of trustees to be audited.

Ibid § 8.

9. The county judge of any county in this state, upon application of any two householders in his county, in writing under oath, setting forth that any person by reason of insanity, as the case may be, is suffering from neglect, exposure or otherwise, or is unsafe to be at large, shall cause such person or persons to be brought before him at such time and place as he may direct; and said county judge

Act of 1878,
p. 72, § 2.
County judge to provide for care of insane.

shall also cause to appear at the same time and place, two or more competent physicians, and the prosecuting attorney of his judicial district, or his deputy, (or in the event of his absence or inability to attend) some practicing attorney of the state, whose duty it shall be to represent the state and protect its interests, who shall proceed to examine the person or persons alleged to be insane or idiotic; and if the said physicians, after careful examination, shall certify upon oath that the said person or persons are insane or idiotic, as the case may be, and the county judge shall find from the consideration of the said certificate and the testimony that may be produced before him, that the said person or persons are insane or idiotic, then said judge shall cause the said insane or idiotic person or persons to be conveyed to, and placed in charge of, the party or parties contracting to keep and care for the insane and idiotic of this

Proviso. state; *provided*, that an appeal shall lie from the decision of the said county judge in such cases, in the same

Appeal. manner as is provided for appeal from the judgments of county courts in other cases, which appeal may be taken either by the householders making such application, or by or on behalf of any person who shall be adjudged to be insane or idiotic; or the same may be taken by the state whenever in the judgment of the prosecuting attorney for the district the interest of the state requires such appeal to be taken; *provided further*, that the county judge shall make diligent inquiry, and when an insane or idiotic person, committed under this act, shall be found to own any estate, real or personal, said

Appointment of a guardian. judge shall immediately, without further petition or notice, appoint a guardian for the estate of such person, who shall execute his trust under the direction of said court, make the same returns and give the same security as in case of the estate of a minor, and said estate shall be liable to the county for the cost of such commitment, and to the state for the costs of conveying such insane or idiotic person to the asylum. In case there is a wife and child, or children, or either, dependent on said estate for support, the county judge

Support of wife and children. shall first make proper allowance for their support out of said estate. A husband shall be liable to the county for the cost of committing his insane or idiotic wife to the asylum, and to the state for the cost of conveying her to

the asylum and keeping her while there, and the parents of minor children committed as insane or idiotic shall be in like manner liable to the county for the cost of such commitments, and to the state for the cost of conveying such insane or idiotic minor children to the asylum, and of keeping them while there. The state shall hold a lien in the nature of a judgment against the estate of a husband for the cost of sending his wife to the asylum and keeping her there when committed as insane or idiotic, and against the estate of parents for the costs of sending their minor children to the asylum and of keeping them there when committed as insane or idiotic. It shall be the duty of the prosecuting attorney for each judicial district to cause to be appointed the guardians herein provided, for all persons so adjudged to be insane or idiotic, who are found to own estate, real or personal, sufficient to pay, in whole, or in part, the expenses of the committal of such person, and of conveying such person to the asylum and of keeping such person while there, and to collect from the estate of such person or persons, and from the husband of an insane or idiotic wife, and from the parents of minor children so committed to the asylum, the cost of conveying such persons to the asylum, and of keeping them while there, and forthwith to pay the same over to the secretary of state, which amount shall be paid by the secretary of state into the state treasury.

State shall hold a lien against their estate.

Duty of prosecuting attorney.

10. The county judge shall cause to be recorded in the records of the county court the proceedings had upon such application and the judgment of the court. When the patient is adjudged insane, he shall make a warrant reciting his findings, the cause or causes of insanity, where the same can be ascertained, together with the name, age, nativity and present residence of the patient. The warrant shall be recorded in the records of the county court, one copy of which shall be sent with the patient to the superintendent of the asylum, another shall be sent to the secretary of state and filed in his office. The person committed shall be conveyed to the asylum by any proper person or persons selected and designated by the county judge. The expenses of sending insane and idiotic persons committed to the asylum shall be paid by the state treas-

Ibid § 3. County judge to record proceedings.

Expenses paid by the state treasurer.

urer on the warrant of the secretary of state, out of the fund appropriated for such purpose, but shall never exceed three dollars per day to the person appointed and his actual reasonable and necessary expenses, together with two dollars and a half per day for the necessary attendants, certified to by the secretary of state, in conveying to and returning from the asylum, on the most usual and direct routes, with the celerity of

Compensation
for examining
physician and
attorney, etc.

ordinary travel on those routes. Such physicians shall receive five dollars each for each examination, and the prosecuting attorney or his deputy, or the attorney called by the court in case of their absence or inability to act, shall receive five dollars for such examination, and the prosecuting attorney shall, for the other services required of him by this act, receive like compensation as now provided by law for similar services. Witnesses shall receive the same compensation as in civil cases. The costs of examination and

Costs of com-
mittal, how
paid.

committal shall be paid by the county in which the examination is made, to be repaid to the county as hereinafter provided. Upon presentation to the secretary of state of a certificate of the county judge, showing that a person has been designated by him to convey an insane or idiotic person to the asylum, and of a certificate from the superintendent of the asylum showing that such person has been conveyed to the asylum and received by the contractor or contractors, and an itemized account verified by the oath of the person so designated, to the effect that the same is just and correct, and that the number of days charged in said account has been necessarily consumed in conveying such person to the asylum, and that the expenses charged have been necessarily incurred, the secretary of state shall audit said account according to the provisions of this act, and draw his warrant upon the treasurer for the amount found due, and the state treasurer shall pay the same out of the fund appropriated for that purpose.

11. Whenever any convict, confined in the state prison, shall, in the opinion of the physician of the prison, be insane or idiotic, the physician shall make oath to the same, before the county judge of the county in which the said prison is located; and said judge shall summon one or more competent physicians, to examine the alleged case of insanity or idiocy, and if, in their opinion, the said con-

Act of Sept. 27,
1862, § 7.
Inquiry of in-
sanity in rela-
tion to con-
vict.

vict is of unsound mind, the judge shall send the statement of said physician, with his own opinion, to the governor, who is hereby authorized, at his discretion, to remove or cause to be removed said convict to the place provided for the insane and idiotic.

12. If the defense be the insanity of the defendant, the jury must be instructed, if they find him not guilty on that ground, to state that fact in their verdict, and the court must thereupon, if it deems his being at large dangerous to the public peace or safety, order him to be committed to any lunatic asylum, authorized by the state to receive and keep such persons, until he become sane, or be otherwise discharged therefrom by authority of law.

Act of Oct. 19,
1864, § 170.
Proceeding,
when defend-
ant acquitted
of insanity.

13. When the commission of the act charged as a crime is proven, and the defense sought to be established is the insanity of the defendant, the same must be proven beyond a reasonable doubt; and no act committed by a person while in a state of voluntary intoxication, shall be deemed less criminal by reason of his having been in such condition; but whenever the actual existence of any particular motive, purpose or intent, is a necessary element to constitute any particular species or degree of crime, the jury may take into consideration the fact that the defendant was intoxicated at the time, in determining the purpose, motive or intent with which he committed the act.

Ibid § 204.
Insanity must
be proven.

PENNSYLVANIA.

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2. Oath of office, organization.
3. Meetings; commissioners to receive no compensation.
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5. Inspection of asylums.
6. Annual visitation.
7. Annual reports of charitable institutions to general agent.
8. Duties of general agent on application for state aid.
9. Power of commissioners to administer oaths.
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12. Supervision over asylums.
13. Additional members of board of charities; qualifications.
14. Committee on lunacy, organization.
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16. Powers of committee.
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19. County board of visitors.
20. Appointment, term of office.
21. Women may be members.
22. Houses for confinement of insane without license, penalties.
23. Violation of rules of committee, penalties.
24. Board of charities to provide for visitation of all insane.
25. Rules for admission of visitors.
26. Illegal detention, penalties.
27. Verdict or judgment not to be entered except on certificate of negligence or corrupt action.
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30. Requisites of certificate.

31. Statement necessary for admission.
32. Contents of statement.
33. Defective statement, how cured.
34. Recording statements, and examination by medical attendants.
35. Patients, when discharged.
36. Free communication with friends.
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38. Private physicians for patients.
39. Unrestricted correspondence of patients with committee.
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45. Interference with correspondence, penalty for, extended to officers.
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78. Superintendent, powers and duties.
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94. Indigent insane, liability of county for support, reimbursement.
95. Recovery of money due asylum from counties.
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97. Preference to indigent insane.
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102. Investigation of insanity by courts, powers, proceedings.
103. Criminal insane, courts authorized, to commit.
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105. Transfer of insane from western penitentiary.
106. Inebriates, temporarily insane, commitment by courts, proceedings; security for expenses.
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110. Cured indigent insane returned to county.
111. Allegheny county insane, regulations for discharge.
112. Inquiry by courts into indigence of criminal insane.
113. Support and commitment, expenses how borne.
114. Reimbursement of expenses.
115. Certified copy of commitment furnished solicitor and physician.
116. Criminals whose expenses remain unpaid returned to county.
117. Preference, order of admission.
118. Indigent insane, charges.
119. Apportionment of charges.
120. Streets through grounds prohibited.
121. Commitment of criminal insane.
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123. Service of process.
124. Proceedings on arrest.
125. Decree of court for commitment.
126. Expenses of maintenance, chargeability for.

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127. Establishment; board of trustees, powers and duties; officers.

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| <p>128. Superintendent, powers and duties.</p> <p>129. Trustees may hold property in trust.</p> <p>130. Admission and discharge, provisions relating to Harrisburg asylum to apply to Danville.</p> <p>131. Discharge to relatives on security.</p> <p>132. Transfer of patients to Danville.</p> <p>133. Apportionment of counties.</p> <p style="text-align: center;">WARREN ASYLUM.</p> <p>134. Establishment, board of trustees, powers and duties.</p> <p>135. Trustees, residence, not to be interested in contracts.</p> <p>136. Trustees, duties; superintendent and female physicians.</p> <p>137. By-laws; treasurer, appointment; salaries of officers.</p> <p>138. Officers, appointment.</p> | <p>139. Trustees may hold property in trust.</p> <p>140. Insane criminals, commitment.</p> <p>141. Indigent insane, commitment by authorities of the poor, charges.</p> <p>142. Ex-officio visitors of asylum.</p> <p>143. Commissioners for selection of site, apportionment of counties.</p> <p style="text-align: center;">NORRISTOWN ASYLUM.</p> <p>144. Establishment; board of commissioners for selection of site.</p> <p>145. Board of managers, title, powers and duties.</p> <p>146. Asylum to be devoted to the care of indigent insane.</p> <p>147. Authorities of the poor to commit to asylum, expenses how borne.</p> <p>148. Commitment, powers of courts.</p> <p>149. Ex-officio visitors of asylum.</p> |
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1. The governor, with the advice and consent of the senate, shall, as soon as practicable after the passage of this act, appoint five commissioners, who, together with the general agent and secretary hereinafter mentioned, shall constitute a board of public charities; one of the persons so appointed shall hold office for one year, one for two years, one for three years, one for four years and one for five years, unless sooner removed; appointments to fill vacancies caused by death, resignation or removal before the expiration of terms, may be made for the residue of such terms, by the governor, subject to the consent of the senate, and all appointments to fill vacancies caused by expiration of terms shall be made in the same manner, and shall be for the period of five years each.

2. The commissioners, before entering upon their duties, shall, respectively, take and subscribe the oath required of other state officers, which shall be filed in the office of the secretary of the commonwealth, who is hereby authorized and directed to administer said oath; they shall have power to elect a president out of their own number, to appoint a general agent and secretary, and to adopt such regulations for the transaction of the business of the board and the management of its affairs as they may deem expedient.

3. The said board shall be provided with a suitable room in the state capital, in which it shall hold its meetings, and it shall meet therein at least once in every three

Act of 1869,
p. 90, § 1.
Board of public charities
erected.

Appointment
of commis-
sioners.

Ibid § 2.
Oath of office.

Ibid § 3.
Meetings of
the board.

months; the time for such regular meetings to be fixed at the time of its organization; the commissioners shall receive no compensation for their services but their actual traveling and other necessary expenses, which shall be paid by the state treasurer, upon the certificate of the auditor general.

4. The general agent and secretary of the board of public charities shall hold his office for three years, unless sooner removed; he shall be a member of the board ex-officio, and it shall be his duty, subject to the control and direction of said board, to keep a correct record of its proceedings, perform such clerical services as it may require, oversee and conduct its outdoor business, visit all charitable and correctional institutions in the state at least once in each year, except as hereinafter provided, and as much oftener as the board may direct, examine the returns of the several cities, counties, wards, boroughs and townships in relation to the support of paupers therein, and in relation to births, deaths and marriages; and he shall prepare a series of interrogatories, with the necessary accompanying blanks, to the several institutions of charity, reform and correction in the state, and to those having charge of the poor in the several counties thereof, or any subdivision of the same, with a view to illustrate, in his annual report, the causes and best treatment of pauperism, crime, disease and insanity; he shall also arrange and publish in his said report all desirable information concerning the industrial and material interests of the commonwealth bearing upon these subjects, and shall have free access to all reports and returns now required by law to be made; and he may also propose such general investigations as he may think best for the approval of the board. He shall be paid annually the sum of three thousand dollars and his actual traveling expenses.

*Ibid § 4.
Tenure of
general
agent; his du-
ties.*

5. The said commissioners shall have full power, either by themselves or the general agent, at all times, to look into and examine the condition of all charitable, reformatory or correctional institutions within the state, financially and otherwise, to inquire and examine into their methods of instruction, the government and management of their inmates, the official conduct of trustees, directors and other officers and employes of the same, the condition of

*Ibid § 5.
Powers of
board of com-
missioners.*

the buildings, grounds and other property connected therewith, and into all other matters pertaining to their usefulness and good management; and for these purposes they shall have free access to the grounds, buildings and all books and papers relating to said institutions; and all persons now or hereafter connected with the same are hereby directed and required to give such information and afford such facilities for inspection as the said commissioners may require; and any neglect or refusal on the part of any officer or person connected with such institution to comply with any of the requirements of this act, shall subject the offender to a penalty of one hundred dollars, to be sued for and collected by the general agent, in the name of the board.

Ibid § 6.
To visit charitable and correctional institutions. 6. The said commissioners, by themselves or their general agent, are hereby authorized and required, at least once in each year, to visit all the charitable and correctional institutions of the state receiving state aid, and ascertain whether the moneys appropriated for their aid are or have been economically and judiciously expended; whether the objects of the several institutions are accomplished; whether the laws in relation to them are fully complied with; whether all parts of the state are equally benefited by them, and the various other matters referred to in the fifth section of this act; and in their annual report to the legislature, to embody the result of their investigations, together with such other information and recommendations as they may deem proper.

Ibid § 8.
Annual reports to be made to the board. 7. It shall be the duty of all persons having charge or oversight over the poor in any city or county of this state, or in any subdivision thereof, and all persons having charge or control of county jails or prisons or workhouses, and of all other persons having charge or control over any other charitable, reformatory or correctional institution, not now by law required to make an annual report of the condition of the same, to make report, annually, to the said general agent, at such time and in such manner as he shall prescribe, of such facts and statements concerning the same as he may require; and all charitable, reformatory and correctional institutions now required by law to make annual reports, shall hereafter make and transmit the same to the

said general agent on or before the first day of January in each year; and all such institutions now receiving or that may hereafter desire to receive state aid, shall annually give notice to the said general agent, on or before the first day of November in each year, of the amount of any application for state aid they may propose to make, and of the several purposes to which such aid, if granted, is to be applied.

Applications
for state aid.

8. Whenever any such institution shall thus give notice of asking for state aid, the general agent shall inquire carefully into the ground of such request, the purpose or purposes for which the aid is asked, the amount which will be required, and into any matters connected therewith; and in the annual report the result of such inquiries shall be given, together with the opinions and conclusions of the board thereon.

Ibid § 9.
Duties of general agent on application for state aid.

9. The several members of said board are each hereby authorized to administer oaths in examining any person or persons, relative to any matters connected with the inquiries authorized by this act.

Ibid § 10.
Power to administer oaths.

10. No member of said board shall be interested directly or indirectly in any contract for building, repairing or furnishing any institution, which by this act they or any one of them are authorized to visit or inspect; nor shall any trustee or other officer of any of the institutions embraced in this act, be eligible to the office of commissioner or general agent hereby created.

Ibid § 11.
Commissioners not to be interested in contracts.

11. The board of public charities shall annually prepare and print, for the use of the legislature, a full and complete report of all their doings during the year preceding, stating fully in detail all expenses incurred, all officers and agents employed, with a report of the general agent and secretary, embracing all the respective proceedings and expenses during the year, and showing the actual condition of all charitable and correctional institutions within the state, with such suggestions as the board may deem necessary and pertinent; and the said general agent and secretary is hereby authorized to prepare the necessary blanks and forward the same, in good season, to all institutions from whom informa-

Ibid § 12.
To make annual report.

tion or returns may be needed, and to require a prompt return of the same, with the blanks properly filled.

COMMITTEE ON LUNACY.

12. The board of public charities shall have the supervision over all houses or places in which any person of unsound mind is detained, whenever the occupant of the house, or person having charge of the lunatic, receives any compensation for the custody, control or attendance, other than as an attendant or nurse, and also of all houses or places, in which more than one such person is detained, with or without compensation paid for custody or attendance.

Act of 1883,
P. 21, § 1.
When board
of public char-
ities shall
have super-
vision over all
houses in
which the in-
sane are de-
tained.

13. There shall be three additional members added to the board of public charities, one of whom, shall be a member of the bar of at least ten years' standing, and one a practicing physician of at least ten years' standing. The three additional members shall be appointed by the governor and confirmed by the senate, after the passage of this act, for a term of five years, or upon any vacancies occurring by death or resignation, for the unexpired term of such appointment, or on expiration of term of service, and the governor upon sufficient cause may, in his discretion, remove any member from the office.

Ibid § 2.
Additional
members and
their quali-
fications, ap-
pointment,
terms of office,
removal.

14. The board shall appoint a committee of five, to act as the committee on lunacy. The two professional members appointed under this act, shall be members of that committee; and three members shall constitute a quorum. The committee shall choose a chairman and secretary to serve for the current year, and annually thereafter in November. The secretary shall receive an annual salary of three thousand dollars, with necessary incidental expenses to be accompanied with proper vouchers, payable quarterly by the state treasurer, and he may be removed at the pleasure of the board of public charities.

Ibid § 3.
Board to ap-
point a com-
mittee on lu-
nacy; organi-
zation of, off-
cers, etc.

15. The committee on lunacy herein provided for, shall examine, for themselves or through their secretary, and report annually to the board, on or before the first day of November, into the condition of the insane in this state, and the management and conduct of the

Ibid § 4.
Duties of the
committee on
lunacy.

hospitals, public and private almshouses, and all other places in which the insane are kept for care and treatment or detention; and it shall be the duty of the officers and others respectively in charge thereof, to give such committee and their secretary, at all times, free access to the insane, and full information concerning them and their treatment therein.

16. The said committee on lunacy are empowered and required to execute, through themselves or their secretary, all the provisions of this act which pertain to their office as set forth therein; and shall direct their secretary accordingly, and shall also, with the consent of the board, make such other rules and regulations for their own government, and that of their secretary, as are not inconsistent with the provisions of this act.

*Ibid § 5.
Powers of the
committee.*

17. The report of the said committee on lunacy, shall be published annually with that of the board of public charities.

*Ibid § 6.
Annual report.*

18. The board shall have power, from time to time, with the consent of the chief justice of the supreme court and of the attorney-general, to ordain rules and regulations on the following matters, so far as the same are not inconsistent with any laws of this commonwealth then in force, and of any provisions of this act:

*Ibid § 7.
Powers, to
make rules,
etc.*

(1) The licensing of all houses or places in which any person can be lawfully detained as a lunatic, or of unsound mind, upon compensation paid to or received by the owner or occupant of such house or place, directly or indirectly, for the care of such lunatic, and also of all houses or places in which more than one person of unsound mind is detained, or resides; *provided*, that this clause shall not extend to any jail or prison; *and provided also*, that the board, with consent as aforesaid, may, from time to time, exempt any particular hospital established by the state, or under any municipal authority, or any eleemosynary institution from the obligation to apply for or obtain a license, and no such institution now existing, shall be required to take out a license until required to do so by the board, with the consent aforesaid.

*To license
houses for
detention of
insane.*

(2) Regulations to insure the proper treatment of persons detained in any house or place, whether licensed or not, that are subject to the provisions of this act,

*To regulate
the treatment
of the insane.*

and to guard against improper or unnecessary detention of such persons.

(3) Regulations of the forms to be observed warranting the commitment, transfer of custody, and discharge of all lunatics, other than those committed by order of a court of record, and as to these with the consent of the presiding judge, of the court under whose order the person is detained.

(4) The visitation of all houses or places licensed under this act, or in which any persons are detained as lunatics, and of all persons detained therein.

(5) The withdrawal of such licenses, and the imposition of conditions under which they shall continue.

(6) Reports and information to be furnished by the manager or managers of all houses or places, subject to the provisions of this act, and by the boards of visitors.

(7) Regulations as to the number of persons that may be detained, and the accommodations to be provided, and food, clothing, fuel to be furnished, in any house or building, subject to the provisions of this act, the manner of such detention, and the restraints imposed, the means of communication by those detained, with relatives, friends and other persons outside the houses and places of detention.

19. There shall be appointed boards of visitors of all houses or places, licensed under this act, or in which any person of unsound mind is detained and for the care and custody of whom compensation of any kind is received or where more than one such person is detained. One such board shall be appointed in every county in which there is a house or place, subject to the provisions of this act, of not less than three persons, and in each county where there are more than one such house or place, the number constituting the board of visitors of such county shall be increased in the discretion of the committee on lunacy.

20. The members of the board of visitors shall be appointed by the board in each year, and shall continue until their successors are appointed, and the board may remove the visitors, and fill vacancies in the office.

21. Women may be appointed members of the boards of visitors, and at least once a year these boards shall be filled up so that members who have failed to act shall be removed.

*Ibid § 10.
Women may
be members.*

22. It shall not be lawful for any person or persons or corporation, not exempted from the obligation to obtain a license under this act, to keep or maintain a house or place for the reception or custody of persons of unsound mind, without having received a license under this act; nor when such license has expired or been withdrawn or suspended, and the manager and occupant of any such house, within which more than one person shall be detained, as being a person of unsound mind for compensation received, and the manager and occupant of any such house or place wherein more than one person is received and detained, with or without compensation, and while there is no license in force authorizing the keeping of such a house or place, shall be deemed guilty of a misdemeanor.

*Ibid § 11.
Keeping
houses for the
insane with-
out a license,
made a mis-
demeanor.*

23. Any person having charge or control of any house or place subject to the provisions of this act, used for the detention care or custody of a lunatic, who shall violate or omit to observe any regulation of the committee on lunacy, authorized by this act, after a copy of the same has been left at the said house or place or delivered to the person named in the license, or to the manager of such house, shall be deemed guilty of a misdemeanor; and all common law rights of action or indictments are also reserved.

*Ibid § 12.
Violation of
rules after no-
tice of act
deemed a
misdemeanor.*

24. The board of public charities shall, from time to time, provide for an effectual visitation of all persons confined as insane in all places over which they are given jurisdiction by this act, and an inspection of such houses or places of confinement, and of the mode of treatment of the insane.

*Ibid § 13.
Visitation.*

25. And the board shall make rules to insure to the patients the admission of all proper visitors, being members of their family, or personal friends, agents or attorneys, and compel obedience to such regulations.

*Ibid § 14.
Rules for ad-
mission of
visitors*

26. The detention of any person as insane in any house or place, made subject to the provisions of this act,

*Ibid § 15.
Detention in*

violation of
act made a
misdemeanor. without compliance with the requisitions of this act, shall be a misdemeanor on the part of any person concerned in such detention, who has omitted or permitted the omission of any of the requirements, and the party aggrieved shall also be entitled to his action for damages.

27. No verdict or judgment shall be entered in any action, nor shall any judgment be entered on any indictment for such detention, as against any person or persons who are subject to the regulations and provisions of this act, who shall have complied with the requirements of this act; unless the judge, after trial and verdict, shall certify that there was proof, to his satisfaction, that the party charged acted with gross negligence or corruptly, or that he acted without reasonable or probable cause, or was actuated by motives other than the good of the person restrained.

28. In all buildings or establishments where an insane person is detained, which are subject to the provisions of this act, there shall be kept the following books, which shall be at all times open to the inspection of any member of the committee on lunacy, or the board of visitors of the proper county:

An admission book.

A discharge book.

A case book in which there shall be regularly entered all the facts, bearing on each patient and his case.

A medical journal in which there shall be, at least once a week, a statement written of all matters which are of special importance, bearing on the treatment and condition of the patients.

ADMISSION AND DISCHARGE, GENERAL RULES.

29. No person shall be received as a patient for treatment or for detention into any house or place, where more than one insane person is detained, or into any house or place where one or more insane persons are detained for compensation, without a certificate signed by, at least, two physicians, resident in this commonwealth, who have been actually in the practice of medicine for at least five years, both of whom shall certify, that they have examined

Ibid § 18.
Certificate of
at least two
physicians
necessary for
admission.

Ibid § 16.
Verdict or
judgment not
to be entered
except on cer-
tificate of
judge.

Ibid § 17.
Books to be
kept and in-
spected.

separately the person alleged to be insane, and after such examination had, do verily believe that the person is insane, and that the disease is of a character, which, in their opinion, requires that the person should be placed in a hospital or other establishment where the insane are detained for care and treatment, and that they are not related by blood or marriage to the person alleged to be insane, nor in any way connected as a medical attendant, or otherwise, with the hospital or other establishment, in which it is proposed to place such person.

30. The certificate above provided for shall have been made within one week of the examination of the patient Ibid § 19. Time within which certificate must be made. and within two weeks of the time of the admission of the patient, and shall be duly sworn to or affirmed before a judge or magistrate of this commonwealth, and of the county where such person has been examined, who shall certify to the genuineness of the signatures, and to the standing and good repute of the signers. And any person Punishment for falsely certifying. falsely certifying as aforesaid, shall be guilty of a misdemeanor, and also liable civilly to the party aggrieved.

31. No person alleged to be insane shall be received into any house for treatment or for detention, unless at the time of such reception the person or persons, at whose instance the person is received, shall, by a writing signed, state that the person has been removed, and is to be detained at his or her request, under the belief that such detention is necessary and for the benefit of the insane person. Ibid § 20. Conditions of admission and detention.

32. There shall also be delivered to the person or persons having the supervision or charge of house, a written statement of the following facts relative to the person to be detained, signed by the person or persons Ibid § 21. Written statement of facts to be given. at whose instance the insane person has been removed and detained, or if the facts be not known it shall be so stated.

- (1) The name.
- (2) Age.
- (3) Residence for the past year, or for so much thereof as is known.
- (4) Occupation, trade or employment.
- (5) Parents, if living.
- (6) Husband or wife.
- (7) Children.

(8) Brothers and sisters and the residence of each of these persons.

(9) If not more than one of these classes is known, the names and residences of such of the next degree of relatives as are known.

(10) A statement of the time at which the insanity has been supposed to exist, and the circumstances that induce the belief that insanity exists.

(11) Name and address of all medical attendants of the patient during the last two years.

33. Should the person in charge of the house have reason to believe that any of these statements have been omitted through ignorance, and that the answers will be immediately furnished, and no reason existing to doubt the good faith of the parties, after inquiring of the person intended to be detained, it shall be lawful to detain the person alleged to be insane for such further period as shall be necessary to obtain the said statements complete, but not exceeding seven days.

*Ibid § 22.
Defective
bona fide
statement
may be com-
pleted.*

34. Within twenty-four hours after any person is received into any house for detention as an insane person, the person in charge there shall enter or have entered in a book kept for that purpose, all the facts stated in the certificate or documents required to be exhibited at the time of receiving the patient, and shall file the originals, and preserve them. The regular medical attendant of the house shall, within twenty-four hours after the reception of any patient, examine such patient and reduce to writing the results of such examination, and enter the same upon a book to be kept for that purpose, together with the opinion formed from such examination, and from the documents received with the patient.

*Ibid § 23.
Contents of
statement to
be entered in
a book and
original filed.*

35. In case the said medical attendant is of the opinion that a detention is not necessary for the benefit of the patient, he shall notify the person or persons at whose instance the patient is detained, and, unless such person shall, without a delay not exceeding seven days, exhibit satisfactory proof of such necessity, the patient shall be discharged from the house and restored to his family or friends.

*Ibid § 24.
Discharge of
patient.*

36. At the time of such examination, the medical attendant

shall himself cause the patient distinctly to understand, if he or she is capable of doing so, that if he or she desires to see or otherwise communicate with any person or persons, means will be provided for such interview or communication, and said attendant shall personally see that proper means are taken to communicate this fact to the person or persons indicated by the patient, and any proper person or persons, not exceeding two, shall be permitted to have a full and unrestrained interview with the patient.

*Ibid § 25.
Patients to
have free
communica-
tion with
friends.*

37. The statements furnished at the time of the reception of the patient, (and of the examination of the patient by the medical attendant of the house) shall be forwarded by mail to the address of the committee on lunacy, within seven days from the time of the reception of the patient, which shall by them be entered in a book which they shall keep for this purpose, and at least once in six months there shall be a report made by the medical attendant of the house, on the condition of each patient, together with such other matters relative to the case, as the said committee may require; and at any time such report shall be made upon the request of the secretary of the committee on lunacy.

*Ibid § 26.
Records re-
garding pa-
tients.*

38. During the detention of any person as insane, any medical practitioner designated by him, or by any member of his family, or "near friend," with the sanction of a judge of a court of record of the county in which such insane person resided at the time of his removal and detention, shall be permitted, at all reasonable hours, to visit and examine the patient; and such medical attendant shall, unless objected to by the patient, be permitted by request of his or her family or "near friend," and with the consent of the physician in chief of the establishment, to attend the patient for all maladies other than insanity, in the same manner, as if the patient were in his own home.

*Ibid § 27.
Patient may
have an at-
tending phy-
sician from
without the
asylum.*

39. All persons detained as insane shall be furnished with materials and reasonable opportunity, in the discretion of the superintendent or manager, for communicating, under seal, with any person without the building, and such communication shall be stamped and mailed. They shall have the unrestricted privilege of address-

*Ibid § 28.
Materials for
letter writing
to be fur-
nished, etc.*

ing communications, if they so desire, not oftener than once a month, to any member of the committee on lunacy.

40. All persons that have been detained as insane (other than criminal insane, duly convicted and sentenced by a court), shall, as soon as they are restored to reason and are competent to act for themselves, in the opinion of the medical attendant of the house, be forthwith discharged;

and any person so detained, shall, at all times, be entitled to a writ of habeas corpus for the determination of this question, and on the hearing, the respondent in that writ shall be required to pay the costs, and charges of the proceeding, unless the judge shall certify that there was sufficient ground, in his opinion, to warrant the detention, and put the petitioner to his writ; in case the discharged patient be in indigent circumstances, such person shall be furnished with necessary raiment, and with funds sufficient for sustenance and travel to his home, to be charged to the county from which such patient was committed.

41. The committee on lunacy shall be notified of all discharges within seven days thereafter, and record of the same shall be kept by the committee.

42. The committee on lunacy may, at any time, order and compel the discharge of any person detained as insane, (other than a person committed after trial and conviction for crime, or by order of court). But such order shall not be made, unless notice be given to the person having charge of the building in which the patient is detained, and to the person or persons at whose instance the patient is detained, and reasonable opportunity given them to justify a further detention, and the committee shall not sign an order of discharge, unless they have personally attended and examined the case of the patient.

43. Persons voluntarily placing themselves in any of the houses provided for in this act, may be detained for the time they shall specify by an agreement signed by them, at the time of their admission, but not exceeding seven days; and they may from time to time, renew the authority to detain them for a time not exceeding seven days from such renewal, but no agreement shall be deemed to authorize a detention, unless signed in the presence of some adult person attending as a friend of the person detained, in

Ibid § 31.
Discharge of
patients.

Any person
detained en-
titled to a
writ of habeas
corpus for
the determi-
nation of
sanity.

Ibid § 32.
Committee to
be notified of
discharges.

Ibid § 33.
Committee on
lunacy may
discharge pa-
tients with
restrictions.

Ibid § 34.
Provision for
voluntary in-
mates.

the presence of, and also by the person in charge of the house or the medical attendant.

44. So much of the act, entitled, "An act to provide for the admission of certain classes of the insane into hospitals for the insane, in this commonwealth and their discharge therefrom," approved the twentieth day of April, Anno Domini one thousand eight hundred and sixty-nine, number fifty-four, of the pamphlet laws of that year, as provides, "that insane persons may be placed in a hospital for the insane by their legal guardians, or by their relatives or friends in case they have no guardians, but never without the certificate of two or more reputable physicians, after a personal examination made within one week of the date thereof, and this certificate to be duly acknowledged and sworn to or affirmed before some magistrate or judicial officer who shall certify to the genuineness of the signature, and to the respectability of the signer," is amended, and the persons thereby authorized to place an insane person in a hospital, are required to observe the forms and conditions, required by this act, in exercising the powers conferred by the said act of the twentieth day of April, Anno Domini one thousand eight hundred and sixty-nine, when the insane person is placed in any house, hospital or place, which is subject to the provisions of this act.

Ibid § 33.
Amendment
of previous
act on admis-
sion of pa-
tients.

45. So much of said act, as provides by section second as enacts, "that it shall be unlawful, and be deemed a misdemeanor in law punishable by a fine of not exceeding one hundred dollars, for any superintendent officer, physician, or other employe of any insane asylum, to intercept, delay or interfere with, in any manner whatsoever, the transmission of any letter or other written communication, addressed by an inmate of any insane asylum to his or her counsel, residing in the county in which the home of the patient is, or in the city or county in which the asylum is located," is hereby amended so that the same shall extend to the superintendents, officers, physicians, servants or other employes of all hospitals, houses or places which are subject to the provisions of this act.*

Ibid § 36.
Interference
with the cor-
respondence
of patients, a
misdemeanor.

* § 37 repeals act of 1869, p. 80, § 10; it being supplied by §§ 15 and 16 of this act, see pl. 26 and 27, supra. The section will be found in full in the appendix.

46. The managers and officers of any hospital or licensed house or place, shall not be liable to the penalties imposed by this act, and shall be entitled to all the protection of this act, in case of receiving for detention a lunatic, or alleged lunatic, without complying with the requisitions of the act, if the judge trying the cause shall certify that the said officers and managers had good reason to believe that such receiving and detention were necessary for the safety of the lunatic, or other persons, and, that the delay required to comply with the requirements of this act would have been injurious to the person detained or to other persons, and that there is no reason to believe that they, or any of them, were actuated by improper motives. And within forty-eight hours after any person is thus received, all the requisitions of this act to authorize a detention shall have been complied with, or the person discharged from custody, and the officers of the hospital, or place where such lunatic has been thus received, shall forthwith notify the board of public charities of the facts connected with the reception and detention.

*Ibid § 38.
When managers and officers not liable to penalties under act.*

47. Whenever any person shall be found by inquisition to be insane, the committee of the person or of the estate, and also the clerk of the court into which the inquisition has been returned, shall thereupon forthwith send to the committee on lunacy at their principal office, a statement in writing, signed by the committee of the lunatic, of the name, age, sex and residence of the lunatic, and the residence of the committee, and upon any change in the residence or place of detention of the lunatic, shall forthwith notify the committee of lunacy of such change. The committee on lunacy, or any one or more of the members of the committee, shall have power to visit and examine the said lunatic, and authorize such visiting and examination by their secretary, or any board of visitors, or one or more members thereof, and by a physician, and the said committee are authorized to apply to any court, having jurisdiction over the committee, or to a judge of a court of common pleas, of the county in which the lunatic is a resident or detained, to make such orders for the maintenance, custody or care of the said lunatic, and for the care and disposition of the property of

*Ibid § 39.
After inquisition statement to be sent to committee on lunacy.*

a lunatic, as the case may require. From any order final or otherwise, thus made, an appeal may be taken to the supreme court, but such appeal shall not be a supersedeas, unless so ordered by the court making the order, or by a judge of the supreme court, on application and a hearing.

48. On a written statement, properly sworn to or affirmed, being addressed by some respectable person to any law judge, that a certain person there confined in a hospital for the insane is not insane, and is thus unjustly deprived of his liberty, the judge shall issue a writ of habeas corpus, commanding that the said alleged lunatic be brought before him for a public hearing, where the question of his or her alleged lunacy may be determined, and where the onus of proving the said alleged lunatic to be insane shall rest upon such persons as are restraining him or her of his or her liberty.

Act of 1863,
p. 79, § 3.
Mode of pro-
curing dis-
charge of per-
sons not in-
sane.

49. Insane persons may be placed in a hospital by order of any court or law judge, after the following course of proceedings, namely: on statement, in writing, of any respectable person, that a certain person is insane, and that the welfare of himself or of others requires his restraint, it shall be the duty of the judge to appoint, immediately, a commission, who shall inquire into and report upon the facts of the case. This commission shall be composed of three persons, one of whom at least shall be a physician and another a lawyer; in their inquisition they shall hear such evidence as may be offered touching the merits of the case, as well as the statements of the party complained of or of his counsel; if, in their opinion, it is a suitable case for confinement, the judge shall issue his warrant for such disposition of the insane person as will secure the object of the measure.

Ibid § 6.
How insane
may be placed
in hospitals
by courts or
law judges.

50. Persons placed in any hospital for the insane may be removed therefrom by parties who have become responsible for the payment of their expenses; *provided*, that such obligation was the result of their own free act and accord, and not of the operation of law, and that its terms require the removal of the patient in order to avoid further responsibility.

Ibid § 8.
Removal of
persons from
hospitals.

51. If it shall be made to appear to any law judge that a certain insane person is manifestly suffering from

Ibid § 9.
Judges to

order to hos- the want of proper care or treatment, he shall order
 pitals insane such person to be placed in some hospital for the
 suffering from insane, at the expense of those who are legally
 want of care. bound to maintain such insane person; but no such order
 shall be made without due notice of the application therefor
 shall have been served upon the persons to be affected thereby
 and hearing had thereon.

52. Nothing in this act shall be construed so as to deprive
 Ibid § 11. any alleged lunatic or habitual drunkard of the
 Construction benefit of the writ of habeas corpus or trial by jury,
 of act. or any other remedy guaranteed to alleged lunatics or habitual
 drunkards by any existing laws or statutes of the common-
 wealth of Pennsylvania.

MISCELLANEOUS PROVISIONS.

53. Whenever the state board of commissioners of public
 Act of 1883, charities shall deem it expedient to transfer any
 p. 92, § 1. such indigent insane persons, in county poorhouses
 Indigent in- or almshouses or otherwise in the custody of the di-
 sane may be rectors or overseers of the poor, to the state hospitals
 transferred for the insane, for care and treatment, the state board
 from poor- of commissioners of public charities shall petition the president
 houses to state judge, of the court of common pleas of the proper county, who
 hospitals. shall enter a rule, upon filing said petition upon said directors
 or overseers of the poor, to show cause why said insane person
 shall not be removed to said state hospital, and if, upon hear-
 ing, he shall deem it best, he shall make an order directing the
 removal of said insane person to the state hospital for the
 proper district.

54. The cost per capita of the care and treatment of the in-
 Ibid § 2. digent insane in state hospitals for the insane, shall
 Cost regu- not exceed the sum of three dollars and fifty cents a
 lated. week, which shall include all charges, except clothing, for
 which the charge shall not exceed fifty cents for each week.

55. The expense of the care and treatment of the indi-
 Ibid § 3. gent insane in the state hospitals for the insane,
 Expense di- shall be divided between the state and the county;
 vided between *provided*, that the maximum charge to the county
 state and shall not exceed, including all charges, the sum of two dol-
 county. lars a week for each person.

56. Whenever any hospital, established for the care of the indigent insane, shall be so injured or destroyed by fire, or by any other cause or accident, as to render it unfit for occupation; the board of public charities, upon being satisfied that the insane cannot there receive proper care and treatment, said board or their representatives shall have power to remove the insane to other hospitals for the insane receiving aid and support from the state, where such persons shall be received and maintained in the manner provided by law; and the cost of maintaining the indigent insane thus transferred shall be chargeable to the authorities having charge of the poor in any city, county, township or poor district in this commonwealth, where such insane person had a legal settlement or residence, or from which he or she was sent, as already provided by the existing laws of this commonwealth.

Act of 1881,
p. 173
When hospital for insane is destroyed, inmates to be removed to other hospitals.

57. If any physician shall falsely certify to the insanity of any person, under the provisions of the first section of the act to which this is a supplement,* and it shall appear in evidence that such false certificate was the result of negligence or deficient professional skill on the part of said physician, or that the said physician signed such certificate for a pecuniary reward, or for the promise of a pecuniary reward, or for any other consideration or value whatsoever, other than the professional fee usually paid for such services, or in which such false certificate shall tend in any manner, directly or indirectly, to advantage said physician other than relates to the said professional fee, then the said physician shall be guilty of a misdemeanor, and on conviction be fined not exceeding five hundred dollars, or undergo an imprisonment not exceeding one year, or both or either, at the discretion of the court.

Act of 1876,
p. 8, § 1.
Penalty for giving false certificate of insanity.

58. In all hospitals or asylums now built or hereafter to be built, and under the control of the state, and in which male and female insane patients are received for treatment, the trustees of said asylums or hospitals may appoint a skilful female physician, who shall reside in said asylum or hospital, and who shall have

Act of 1879,
p. 98, § 1.
Appointment of female physicians authorized.

* Act of 1869, p. 79, the first section of which is supplied by pl. 44, supra.

the medical control of said female inmates, who shall report to the superintendent and also to the trustees.

59. Said female physician shall be appointed by said trustees for a term not exceeding five years, and shall not be subject to removal within that term except for infidelity to the trust reposed or for incompetency.

60. The said board [of public charities] shall have power, by a resolution, to be entered on its minutes, subject to such terms and regulations as it may prescribe, to designate three or more persons in any county to act, without compensation, as visitors in said county of the several poorhouses and other institutions therein, subject to the visitation of the board, in aid of and as representatives of such board; and all public officers and others in charge of such institutions shall admit to said institutions all such persons so designated, upon the production of a copy of such resolution, certified by the president or secretary of said board, to visit, examine and inspect the grounds and buildings of every such institution and every part thereof, and all its hospital and other arrangements, and to have free access to all its inmates. Any public officer, superintendent or person in charge of any such institution, who shall refuse to admit any person so designated, or shall refuse to give said visitors all requisite facilities for the examination and inspection herein provided for, shall be subject to a penalty of two hundred and fifty dollars for each such refusal, which penalty may be sued and recovered in the name of the people of the state, by the district attorney of the county in which such institution is situated, and the sum so recovered shall be paid into the treasury of the state.

CRIMINAL INSANE.

61. The provisions of this act in respect of the admission or discharge of patients, shall not extend to insane criminals in custody. Such persons shall not be received, except when delivered by a sheriff of the county or his deputy, together with an order of the court, of the county in which he was arrested or convicted, having jurisdiction of the offense, under the seal of the court and signed by a law judge. Nor shall such criminals be dis-

Ibid § 2.

Term of office.

Act of 1874,

p. 119, § 1.

Appointment
of visitors.

Admission of
visitors.

Penalty for
refusal.

Act of 1883,
p. 21, § 29.
Provision for
receiving in-
sane crimi-
nals.

charged from a hospital, or other place of detention for the insane, saving on a like order, and to the sheriff or his deputy producing such order, and while detained as an insane person, such criminal shall be kept so as to insure his detention until duly discharged. Whenever any person detained in any jail or prison is insane, or in such a condition as to require treatment in a hospital for the insane, it shall be the duty of any law judge of the court, under whose order the person is detained, upon application, to direct an inquiry into the circumstances, either by a commission or otherwise, as he shall deem proper, with notice to the committee on lunacy; and if the judge shall be satisfied that the person confined requires treatment in a hospital, he shall thereupon direct the removal of the said person from the jail or prison to a state hospital, which order shall be executed by the sheriff of the county or his deputy, and the actual expenses of such removal, and the expenses of maintaining the person in the hospital, shall be paid by the county liable for the maintenance of the said person in the jail or prison from which he is removed.

Expenses when criminal becomes insane and is transferred to asylum.

62. The trustees, managers and physician of any hospital in which a criminal is confined by order of any court, or in which a lunatic has been committed after an acquittal of crime, shall not discharge, release or remove the prisoner or lunatic, without the order of a court of competent jurisdiction; and in case such lunatic, whether a convict or acquitted, is not set at large but is to be removed to any place of custody other than a hospital, the order for removal shall not be made without notice to the committee of lunacy, and time given them to investigate the case and be heard on the application.

Ibid § 30. Insane criminals to be discharged on order of court.

63. In every case in which it shall be given in evidence upon the trial of any person charged with any crime or misdemeanor, that such person was insane at the time of the commission of such offense, and he shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offense, and to declare whether he was acquitted by them on the ground of such insanity; and if they shall so find and declare, the court before whom the trial is had

Act of 1860, p. 445, § 66. Insane prisoners, relative to.

shall have power to order him to be kept in strict custody, in such place and in such manner as to the said court shall seem fit, at the expense of the county in which the trial is had, so long as such person shall continue to be of unsound mind.

64. The same proceedings may be had if any person indicted for an offense shall, upon arraignment, be found to be a lunatic, by a jury lawfully empaneled for the purpose, or if, upon the trial of any person so indicted, such person shall appear to the jury, charged with such indictment, to be a lunatic, the court shall direct such finding to be recorded, and may proceed as aforesaid.

*Ibid § 67.
When defendant is found insane upon arraignment.*

65. In every case in which any person charged with any offense shall be brought before the court to be discharged for want of prosecution, and shall, by the oath or affirmation of one or more credible persons, appear to be insane, the court shall order the district attorney to send before the grand jury a written allegation of such insanity in the nature of a bill of indictment; and thereupon the said grand jury shall make inquiry into the case, as in the cases of crimes, and make presentment of their finding to said court thereon; and thereupon the court shall order a jury to be empaneled to try the insanity of such person; but before a trial thereof be ordered, the court shall direct notice thereof to be given to the next of kin of such person, by publication or otherwise, as the case requires, and if the jury shall find such person to be insane, the like proceedings may be had as aforesaid.

*Ibid § 68.
Where prisoner brought up to be discharged appears to be insane.*

66. If the kindred or friends of any such person who may have been acquitted as aforesaid, on the ground of insanity, or in the default of such, the guardians, overseers or supervisors of any county, township or place, shall give security in such amount as shall be satisfactory to the court, with condition that such lunatic shall be restrained from the commission of any offense, by seclusion or otherwise, it shall be lawful for the court to make an order for the enlargement of such lunatic, and his delivery to his kindred or friends or, as the case may be, to such guardians, overseers or supervisors.

*Ibid § 69.
Insane defendant to be delivered to friends.*

67. The estate and effects of every such lunatic shall, in all cases, be liable to the county for the reimbursement

Ibid § 70.

of all costs and expenses paid by such county in pursuance of such order; but if any person acquitted on the grounds of insanity, shall have no estate or effects, the county, township or place to which such lunatic may be chargeable under the laws of this commonwealth relating to the support and employment of the poor, shall, after notice of his detention aforesaid, be liable for all costs and expenses as aforesaid, in like manner as if he had become a charge upon any township not liable for his support under the laws aforesaid.

How expenses to be paid in such cases.

68. Whenever any person is acquitted on a criminal suit, on the ground of insanity, the jury shall declare this fact in their verdict, and the court shall order the prisoner to be committed to some place of confinement for safe keeping or treatment, there to be retained until he may be discharged in the manner provided in the next section.

Act of 1869, p. 79, § 4. Prisoners acquitted on ground of insanity to be retained in custody.

69. If, after confinement of three months' duration, any law judge shall be satisfied by the evidence presented to him that the prisoner has recovered, and that the paroxysm of insanity in which the criminal act was committed was the first and only one he had ever experienced, he may order his unconditional discharge; if, however, it shall appear that such paroxysm of insanity was preceded by at least one other, then the court may, in its discretion, appoint a guardian of his person, and to him commit the care of the prisoner, said guardian giving bonds for any damage his ward may commit; *provided always*, that in case of homicide or attempted homicide the prisoner shall not be discharged unless in the unanimous opinion of the superintendent and the managers of the hospital, and the court before which he or she was tried, he or she has recovered and is safe to be at large.

Ibid § 5. What judge may do after three months' confinement.

70. On statement, in writing, to any law judge, by some friend of the party, that a certain person placed in a hospital under the fifth section is losing his bodily health, and that consequently his welfare would be promoted by his discharge, or that his mental disorder has so far changed its character as to render his further confinement unnecessary, the judge shall make suitable inquisition

Ibid § 7. Discharge of prisoners on account of ill health, etc.

into the merits of the case, and, according to its result, may or may not order the discharge of the person.

71. Whenever any person is imprisoned within the commonwealth, convicted of any crime whatsoever or charged with any crime, and acquitted on the ground of insanity, application, in writing, may be made by the warden, superintendent, physician or any inspector of the penitentiary or prison in which such person is imprisoned, or by the general agent of the board of public charities, to the court hereinafter named, or to any law judge thereof, which application shall certify, under oath or affirmation, that such prisoner is believed to be insane, and shall request that such prisoner shall be removed to a hospital for the insane, whereupon it shall be lawful, for any judge learned in the law of any court within this commonwealth having immediate cognizance of the crime with which such prisoner is charged, or of the court by which such prisoner has been convicted, to appoint a commission of three citizens of this commonwealth, of whom one shall be of the profession of medicine and one of the profession of law, whose duty it shall be to inquire into and report upon the mental condition of such prisoner, and if in a report signed by a majority or all of the members of such commission it shall appear that the prisoner inquired of is of unsound mind and unfit for penal discipline, it shall be lawful for the judge issuing such commission, or for any other judge of same court learned in the law, to make an order, under the seal of such court, directing the removal of such prisoner from the place of his or her imprisonment, and that he or she shall be received, maintained and cared for by the hospital for the insane nearest to such place of imprisonment, and which shall or may receive aid or support, from the treasury of the state, and that such patient shall be detained in such hospital until an order, as hereinafter provided, shall be granted by the said court, or any judge thereof learned in the law, for the return of such prisoner to the penitentiary or prison from which he or she was removed, or for his or her discharge from such hospital; *provided always*, that whenever any hospital shall be established especially for the care of insane patients who shall have been convicted of crime, or whenever separate accom-

Act of 1874,
p. 160, § 1.
Insane acquitted
or convicted
of crime
may be re-
moved to
hospitals.

modations shall be made for such patients in any hospital aided from the treasury of the state, the order, as aforesaid, for the removal of any such person from his or her place of imprisonment shall direct that he or she shall be received, maintained and cared for in such special hospital or in the separate accommodations of any hospital prepared for such purpose.

72. In all cases where any person who may have committed any criminal act, and is dangerous to the community, shall be found to be insane in the manner provided by law, and in all cases mentioned in the sixty-sixth, sixty-seventh and sixty-eighth sections of the act of thirty-first of March one thousand eight hundred and sixty,* relative to criminal procedure, it shall be lawful for any court having cognizance of the crime or offense with which such person is charged, to commit to either of the hospitals for the insane mentioned in the preceding section of this act, any such insane person for so long time as such person shall continue to be of unsound mind.

*Ibid § 2.
Court may
commit to
hospitals all
prisoners
found to be
insane.*

73. Whenever the superintendent or other proper medical authority of any hospital for the insane, to which any patient shall have been sent under the provisions of this act, shall, in writing, certify to the judge or court by whom the order for removal and detention has been made, that such patient has been so far restored to mental sanity as no longer to need the remedial or custodial care of such hospital, it shall be lawful for the said judge or court, if the term of imprisonment for which such prisoner was sentenced has not expired, to remand such prisoner to the place of imprisonment from which he or she was brought to such hospital, to serve out the unexpired term of sentence, or if such prisoner become unsound in mind after the alleged crime and before conviction, to remand such prisoner for trial; but if the term for which such prisoner was sentenced shall have expired, or if the crime wherewith such prisoner is charged shall have been committed during his or her probable insanity, and in all cases provided for in the second section of this act, it shall be lawful for the said judge or court to order the discharge of such patient from the said hospital.

*Ibid § 3.
When and
how prisoners
to be remand-
ed to prison or
for trial.*

* See pl. 63-65, *supra*.

74. Whenever the term of sentence of any prisoner sent to a hospital for the insane under the provisions of this act shall expire while such prisoner remains uncured and a patient of said hospital, it shall be lawful for the judge or court by whom the order of removal and detention has been made, upon the due application of relatives or friends of such patient, and upon proper surety being given for the custody and care of such patient, to make an order for the discharge of such patient from the said hospital, and his or her delivery to the guardianship and control of the person or persons applying therefor; and no person committed to a hospital under any of the provisions of this act shall be discharged therefrom, otherwise than in the manner hereinbefore provided.

75. The expenses incurred for the removal of any insane person from a place of imprisonment to any hospital, or for their removal from such hospital, in pursuance of the provisions of this act, and of his or her detention, maintenance and care in the said hospital, shall be chargeable to and paid by the commissioners of the county in which the alleged crime with which he or she was charged was committed; and the said commissioners shall have remedy over against the poor district, liable under existing laws, or against the estate and effects of every such prisoner, for the reimbursement of such expenses to the said county.

76. The expense of supporting all indigent insane criminals now in the Pennsylvania state lunatic hospital from the county of Fulton, under sentence of the court of quarter sessions of the said county, and whose last place of settlement was in any poor district in said county, at the time of sentence by said court, and all indigent insane criminals that may hereafter be sentenced by the said court, to any lunatic hospital for insane persons, and whose last place of legal settlement may be in any poor district in said county, shall be paid by the said county of Fulton, without any right on the part of said county to be reimbursed such expense by the respective township or poor district in said county, to which such insane person or persons may belong; *provided*, that nothing in this act shall be taken or construed to exempt the relatives, if of

Ibid § 4.
When prisoners may be delivered to relatives.

Ibid § 5.
How expenses, removal, etc., are to be paid.

Laws 1883,
p. 127, § 1.
County to pay expenses of supporting her indigent insane criminals.

sufficient ability, of such insane person or persons from liability for his or her support.

HARRISBURG ASYLUM.*

77. The governor shall nominate, and by and with the advice and consent of the senate, appoint nine persons to be trustees of the said institution, who shall be a body politic and corporate, by the name and style of the "trustees of the [Pennsylvania state lunatic hospital]," and shall manage and direct the concerns of the institution, and make all necessary by-laws and regulations not inconsistent with the constitution and laws of the commonwealth; and shall have power to receive, hold, dispose of, and convey all real and personal property conveyed to them by gift, devise or otherwise, for the use of the said institution, and shall serve without compensation; of those first appointed three shall serve for one year, three for two years, three for three years, and at the expiration of the respective periods the vacancies to be filled by appointments for three years; and should any vacancy occur by death, resignation or otherwise, of any trustee, such vacancy shall be filled by appointment for the unexpired time of such trustee. The said trustees shall have charge of the general interests of the institution; they shall appoint the superintendent, who shall be a skilful physician, subject to removal or re-election no oftener than in periods of ten years, except by infidelity to the trust reposed in him or for incompetency—said physician shall always reside in the asylum, he shall be a married man, and his family shall reside

Act of 1845,
p. 441, § 5,
as amended
by act of 1843,
p. 533, § 1.
Trustees.

Incorporated.

Powers.

Vacancies.

Superintend-
ent.

* By the act of 1841, p. 57, a commission was appointed to select a site for an asylum, and in the discharge of their duties purchased a tract of land on the west bank of the river Schuylkill, now occupied by the Blockley almshouse, the property of the city of Philadelphia.

By the act of 1845, p. 440, a commission was appointed to select a new site near Harrisburg, and to contract for the erection of buildings. The asylum has been built and is the present Pennsylvania state lunatic hospital.

By the act of 1849, p. 462, the site selected at Philadelphia was sold, and by the act of 1850, p. 538, § 22, the proceeds were appropriated to the asylum at Harrisburg.

The counties comprising the Harrisburg district are: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon; Juniata, Lancaster, Lebanon, Mifflin, Perry, Schuylkill and York.

with him; the trustees, by and with the consent of the gov-
By-laws. ernor, shall make such by-laws and regulations for
the government of the asylum as shall be necessary; they
Treasurer. shall appoint a treasurer, who shall give bonds to
the commonwealth for the faithful discharge of his duties; they
Salaries. shall determine his compensation for services; also
the salaries of the other officers and assistants, who may be
necessary for the just and economical administration of the
affairs of said hospital.

78. The superintending physician shall appoint and exer-
Ibid § 6. cise entire control over all subordinate officers and
Powers of assistants in the institution, and shall have entire
superintend- direction of the duties of the same.
ent.

79. The said trustees, and their successors in office, shall have
Ibid § 7. power to take and hold in trust, for the use and
Of donations. benefit of said asylum, any grant or devise of land,
and any donation or bequest of money, or other personal prop-
erty to be applied to the maintenance of insane persons, in or
to the general use of the asylum.

80. The admission of insane patients from the several coun-
Ibid § 8. ties of the commonwealth, shall be in the ratio of
Admission of their insane population; *provided*, that each county
patients. shall be entitled to send at least one insane patient.

81. Indigent persons and paupers shall be charged for med-
Ibid § 9. ical attendance, board and nursing, while residents
Charges. in the hospital, no more than the actual cost; pay-
ing patients, whose friends can pay their expenses, and who
are not chargeable upon townships or counties, shall pay ac-
cording to the terms directed by the trustees.

82. The courts of this commonwealth shall have power to
Ibid § 10. commit to said asylum any person, who having been
Insane crimi- charged with an offense punishable by imprison-
nals admis- ment or death, who shall have been found to have
sible. been insane, in the manner now provided by law, at the time
the offense was committed, and who still continues insane;
and the expenses of said persons, if in indigent circumstances,
shall be paid by the county to which he or she may belong by
residence.

83. It shall be the duty of the court, in all cases where they
Ibid § 11. shall commit any person to the asylum, to certify to
Legal settle- the trustees the legal settlement of such person, if
ment.

if he or she have any legal settlement in this commonwealth; and if such person shall have no such settlement, then to certify the place of residence of such person at the time of offense committed, on application made, and the poor district so certified to be the place of settlement or residence of such person, shall be chargeable with the expenses of his or her care and maintenance, and removal to and from said asylum: *provided*, that the settlement or residence of any such person shall not be so certified, until after due notice shall have been given to the constituted authority having charge of poor in the district to be charged thereby.

84. In all cases where any court in this commonwealth shall commit or have committed any person to the state lunatic hospital, under the provisions of the eleventh section of the act to which this is a supplement,* where such person has no legal settlement in any district or township in this commonwealth, but only a residence therein, the county wherein he or she is found or has been found a lunatic, shall be chargeable with the expense of his or her care and maintenance, and removal to and from said hospital, and the said court shall certify to the trustees of said hospital accordingly.

Act of 1854,
p. 85, § 1.
By whom ex-
pense of re-
moval and
maintenance
of indigent in-
sane to be
borne, who
have no legal
settlement.

85. The several constituted authorities having care and charge of the poor in the respective counties, districts and townships of this commonwealth, shall have authority to send to the asylum such insane paupers under their charge as they may deem proper subjects; and they shall be severally chargeable with the expenses of the care, and maintenance, and removal to and from the asylum, of such paupers.

Act of 1845,
p. 441, § 12.
Insane pau-
pers.

86. If the guardian, directors, or overseers of the poor, to whom any patient who shall be in the asylum is chargeable, shall neglect, or refuse, upon demand made, to pay to the trustees the expenses of the care, maintenance and removal of such patient and also, in the event of death, of the funeral expenses of such patient the said trustees are hereby authorized and empowered to collect the same, as debts of a like nature are now collected.

Ibid § 13.
Charges, how
collected.

* Act of 1845, p. 440, see pl. 83, *supra*.

87. If any person shall apply to any court of record within this commonwealth, having jurisdiction of offenses which are punishable by imprisonment for the term of ninety days or longer, for the commitment to said asylum [of] any insane person within the county in which such court has jurisdiction, it shall be the duty of the said court to inquire into the fact of insanity in the manner provided by law; and if such court shall be satisfied that such person is, by reason of insanity, unsafe to be at large, or is suffering any unnecessary duress or hardship, such court shall, on the application aforesaid, commit such insane person to said asylum.

Ibid § 14.
Power of
courts to com-
mit the insane
thereto.

88. In order of admission, the indigent insane of this commonwealth shall always have precedence of the rich; and while the finances of the state do not permit ample provisions for all cases of insanity, recent cases shall have preference over those of long standing.

Ibid § 15.
Preferences.

89. The governor, judges of the several courts of record in the commonwealth, and the members of the legislature shall be ex-officio visitors of the institution.

Ibid § 16.
Visitors.

90. Whenever, in the opinion of the inspectors of the eastern penitentiary, any of the prisoners therein confined, shall develop such marked insanity as to render their continued confinement in said penitentiary improper, and their removal to the state lunatic hospital necessary to their restoration, it shall be the duty of the said inspectors to submit such cases to a board, composed of the district attorney of the county of Philadelphia, the principal physician of the Pennsylvania hospital for the insane at Philadelphia, and the principal physician of the Friends' insane asylum, at Frankford, in Philadelphia county, and in case a majority of them cannot, at any time when required attend, a competent physician or physicians to be appointed by the court of quarter sessions of the county of Philadelphia, in the place of such as cannot attend, upon whose certificate of insanity or the certificate of any two of them transmitted to the governor, and if by him approved, he shall direct that said insane prisoners shall be, by said inspectors, removed to the state lunatic hospital, there to be received, safely kept, and properly provided for, at the cost and charge of the county

Act of 1852,
p. 642, § 42.
When prison-
ers in the
eastern peni-
tentiary may
be transferred
to the
hospital.

from which they were sent to the penitentiary, and if, at any time during the period for which any such insane prisoners shall have been sentenced to confinement in the eastern penitentiary, they shall, in the opinion of the trustees of said lunatic hospital, be so far restored as to render their return to said penitentiary safe and proper, then the said trustees shall cause the said prisoner to be returned to said eastern penitentiary, due notice to be given to the clerk of the court of quarter sessions of the county from which such prisoners were sent to the penitentiary, of all such removals or transfers.

91. When application shall be made under the fourteenth section of the act of the fourteenth of April, 1845, to which this is supplementary,* to any court of this commonwealth, for the commitment of any person to the Pennsylvania state lunatic hospital, it shall be lawful for such court to either inquire into the fact of insanity, in a summary way, after giving the notice required by law to the alleged lunatic, and his or her friends or kindred, or by avoiding [awarding] an inquest at the option of the court; and in all cases it shall be lawful for the several courts of this commonwealth to use their discretion in sending insane persons, who are unsafe to be at large, to said hospital, or cause them to be confined elsewhere, as the said courts shall believe the case to be curable or otherwise.

Act of 1861,
p. 248, § 1.
Courts to in-
quire into fact
of insanity.

Discretion as
to unsafe
persons.

92. No person shall hereafter be sent to said lunatic hospital under the tenth section of the act of the fourteenth of April, 1845,† or any other law of this commonwealth, who shall have been charged with homicide, or having endeavored or attempted to commit the same, or to commit any arson, rape, robbery, or burglary, and have been acquitted of any such offenses on the ground of insanity, or been proceeded against under the fifty-ninth or sixtieth sections of the act of the thirteenth of June, 1836,‡ relative to lunatics and habitual drunkards, where the court trying such person, or hearing the case, shall be satisfied that it is dangerous for said lunatic to be at large on account of having committed, or attempted to commit either of the crimes aforesaid, but such persons shall be continued in the

Ibid § 2.
Persons ac-
quitted on the
ground of in-
sanity, rela-
tive to same.

* See pl. 87, supra. † See pl. 82, supra.

‡ Repealed 1860, § 79, p. 455, and supplied by pl. 63-67, supra.

penitentiary of the proper district, or the prison of the proper county; *provided*, that said court shall still have power to order any such person to be confined in the said lunatic hospital, if, on full examination, it shall be satisfied that there is reason to believe that a cure of the insanity may be speedily effected by sending him or her thereto.

93. In every case where a lunatic has been, or shall be committed to said hospital, after an acquittal of any crime on the ground of insanity, or after an investigation in court, under the fifty-ninth and sixtieth sections of the act of the thirteenth of June, 1836,* or on account of it [having] been adjudged dangerous for such lunatic to be at large; and in all cases where any lunatic has been or shall be removed thereto from either of the penitentiaries, or any prison of this commonwealth, under the order of a judge, or of any court, it shall be lawful for the trustees of said hospital, with the aid of the superintending physician, to inquire carefully into the situation of such lunatic, and if a majority of the board, including the physician, shall be satisfied that there is no reasonable prospect of a cure of the insanity being effected by a retention of the lunatic in the hospital, they shall, at the expense of the proper city or county, cause him or her to be removed to the prison of the proper county, or the penitentiary from which he or she was sent.

94. Whenever an indigent insane person shall hereafter be sent to said hospital, the city or county from which he or she was sent, shall be liable to the trustees of the hospital for his or her maintenance, and shall have remedy over against the proper township, where by existing laws the township is liable for the support of such pauper, and the overseers of the poor of the township shall have remedy over against the property of the pauper, or against any relative required by law to maintain him or her, to the extent of their liability under the poor laws.

95. In all cases where money is now, or hereafter shall become due to said hospital from any township or county, on account of the maintenance of any

Ibid § 3.
Powers of the
trustees and
physicians in
certain cases.

Ibid § 4.
Liability of
city, county,
and township
for indigent
insane.

Ibid § 5.
Recovery of
money due

* See note to pl. 92.

person sent there by the proper legal authorities, ^{hospital,} and no suit is now pending for the recovery thereof, ^{mode of} ^{proceeding.} it shall be lawful for the treasurer of the hospital to cause a statement of the account, with notice of the amount claimed, to be served on the commissioners of the proper county, or the overseers of the poor of the township, and if the same is not paid within thirty days after such notice and demand, to place such claim in the hands of the attorney-general of the commonwealth, whose official duty it shall be to cause suit to be brought therefor in the name of the corporation, in the court of common pleas of Dauphin county; and the whole proceeding for the recovery of such debt shall be conducted in the manner, and the action shall have like precedence, as suits for claims due the commonwealth. * * * *

96. On the application of the friends or relatives of any insane person now, or who may hereafter be confined ^{Ibid § 6.} in said hospital, to the court of common pleas of ^{Delivery of} Dauphin county, or to the president judge of said ^{insane to} court in vacation, it shall be lawful for said court or judge, ^{friends or} where the same may be done with safety to the com- ^{relatives.} munity, to deliver over to such friends or relatives ^{Security to} the person so confined; but before so delivering over such ^{be given.} lunatic, said court or judge may require sufficient security to be given in the name of the commonwealth, that such lunatic shall do no injury to the person or property of anyone when at large, to continue during such term of time as the court or judge may direct.

97. So long as applications in behalf of indigent insane persons, of any class or condition, are pending for admission to said hospital [the Pennsylvania state lunatic hospital] no additional paying patients shall be received. ^{Act of 1876,} ^{p. 48, § 2, ad} ^{fin. Prefer-} ^{ence given to} ^{indigent in-} ^{sane.}

98. It shall not be lawful for any railroad company or other corporations now or hereafter created under the laws of this commonwealth, and the same are hereby forbidden and prohibited from entering in or upon or from constructing or building any railroad, or other works, within, upon or over any lands, tenements or hereditaments belonging or appertaining to the said Pennsylvania state lunatic hospital. ^{Act of 1873,} ^{p. 38, § 1.} ^{Railroads, etc,} ^{on grounds} ^{prohibited.}

DIXMONT ASYLUM.*

99. The governor, judges of the several courts of record of the commonwealth, and the members of the legislature, shall be ex-officio visitors of the institution.

Act of 1833,
p. 512, § 11.
Visitors.

100. The governor of this commonwealth shall have power to appoint, annually, three persons, citizens of Pennsylvania, to serve as managers, for one year, of the said western Pennsylvania hospital; and further, the said board of managers shall make and return annually, in the month of January, to the legislature of the state, a full and complete statement, certified by their president and treasurer, of the affairs and conditions of the said hospital.

Act of 1836,
p. 133, § 2.
Governor to
appoint man-
agers.

101. When there shall be reasonable cause to believe by the physician of the western state penitentiary, that any convict confined therein is insane, he shall forthwith communicate the same to the proper warden and board of inspectors, whose duty it shall be forthwith to examine and inquire into the mental condition of such convict, and if thereupon the board of inspectors shall deem it proper and advisable, they shall direct the proper physician of the said western penitentiary, in which such convict is confined, to call to his aid the physician of the insane department of the western Pennsylvania hospital, and another competent person learned in medical jurisprudence; and if upon examination and consultation upon the mental condition of said convict, they or a majority of them shall be satisfied that he, the said convict, is insane, they shall certify

Act of 1838,
p. 151, § 1.
Proceedings
for transfer of
insane con-
victs to west-
ern Pennsyl-
vania hos-
pital.

* By the act of 1837, P. L. 1836-7, p. 236, the "Western Pennsylvania Hospital Society" at Pittsburgh was incorporated. By the act of 1838, P. L. 1837-8, p. 263, an appropriation was made to build a separate department for the insane, and commissioners were appointed, who erected the present hospital at Dixmont, and a board of trustees was appointed. By the act of 1848, p. 218, the previous acts were repealed, and the "Western Pennsylvania Hospital" incorporated and organized, under the control of twenty-one managers. By the acts of 1868, p. 15, § 38, and 1869, p. 33, § 36, the state was given a partial control over the management of the asylum.

The counties comprising the Dixmont district are: Allegheny, Armstrong, Beaver, Butler, Cambria, Fayette, Greene, Indiana, Jefferson, Lawrence, Somerset, Washington, and Westmoreland.

Many of the sections under this title seem to be supplied by the sections under the title, Admission and Discharge, *supra*.

and report in writing their opinion to the board of inspectors, and thereupon, if the said inspectors shall approve the report of the said physicians, they shall transmit the same to the governor, and if by him also approved, he shall direct that said insane prisoner shall be by said inspectors removed to the state lunatic hospital, or to the western Pennsylvania hospital, there to be received, safely kept, and properly provided for at the cost and charge of the county from which he was sent to the penitentiary; and if at any time during the period for which any such insane prisoner shall have been sentenced to confinement in the said penitentiary, he shall in the opinion of the board of managers of the hospital to which he may have been removed, be so far restored as to render his return to said penitentiary safe and proper, then the said board of managers shall cause the said prisoner to be returned to said penitentiary; and due notice of all such removals or transfers shall be given by them to the clerk of the court of the proper county in which such prisoner was sentenced, and from which he was sent to the said penitentiary.

102. If any person shall apply, by petition, to any court of record of any of the counties of this commonwealth, hereinafter named in the eighteenth section of this act,* having jurisdiction of offenses, punishable by imprisonment, for the term of ninety days, or longer, for the commitment, to the western Pennsylvania hospital, of any insane person, within the county in which said court has jurisdiction, it shall be the duty of such court to inquire into the fact of insanity, in a summary way, after giving notice to the alleged lunatic, or insane person, or to his, or her, friends or kindred, or some of them, or by awarding an inquest for that purpose, at the option of the court; and if it shall appear, to the satisfaction of said court, or if it shall be found, by such inquest, that such person is lunatic or insane, and by reason of such insanity is unsafe to be at large, or that he, or she, is suffering any unnecessary duress, or hardship, such court shall either commit such lunatic, or insane person, to the said hospital, or if the court shall believe such insane person to be incurable, they may cause them to

Act of 1863,
p. 539, § 1.
Courts of cer-
tain counties
to inquire
into fact of
insanity of
petitioners for
commitment.

* See pl. 119, *infra*.

be confined elsewhere; *provided*, that in all such cases, the court shall inquire, and ascertain, whether the estate of such insane person is sufficient to pay for the care, medical attendance, and maintenance of such person, such charges as the board of managers, of said hospital, may make for pay patients, or whether the friends, or relatives, of such insane person are able, or willing, to make provision for the payment thereof, and if not, then it shall be the duty of said court to declare such insane person to be in indigent circumstances; and said court shall thereupon certify, to the managers, or to the solicitor, of said hospital, the legal settlement of such insane person, if he, or she, have any legal settlement in this commonwealth, and if he, or she, have no legal settlement, then to certify the place of residence of such insane person; which place shall then be held to be his, or her, place of settlement, and shall cause notice thereof to be given by the sheriff of the county, wherein such court is held, to the commissioners of the county, to be charged with the expenses of such insane person, and to the constituted authorities having charge of the poor, in the poor district, in such county, to which such insane person belongs, as aforesaid; and the county, wherein such indigent insane person had his, or her, place of settlement, or residence, shall be liable to said hospital for the expenses of the care, medical attendance, and maintenance, and removal to, and from, said hospital, and in case of death, of the funeral expenses of such insane person, or persons, with remedy over against the proper poor district, as hereinafter provided. * * *

103. Until the legislature shall otherwise provide for the care of insane criminals, the several courts of this commonwealth, having jurisdiction in the counties mentioned in the eighteenth section of this act, respectively, shall, where any person, charged with any offense or crime punishable by imprisonment, or death, may have been found, in the manner provided by law, to have been insane, at the time when the offense was committed, and who still continues to be insane, and in all cases mentioned in the sixty-sixth, sixty-seventh, and sixty-eighth sections of the act of thirty-first of March,

County liable
for all ex-
penses.

Ibid § 2.
Courts au-
thorized to
commit to
hospitals,
insane
criminals at
the expense
of the respec-
tive counties.

1860,* relative to criminal procedure, have the power to commit, to said hospital, any such insane person, or persons, for so long a time as such person, or persons, continue to be of unsound mind, at the expense of the county where such trial, or proceedings, are had, and from which such insane person, or persons, was, or were, committed: *provided*, that no person shall, hereafter, be committed to said hospital, under the provisions of this section, or of the sixty-sixth, sixty-seventh, or sixty-eighth sections of said act of thirty-first of March, 1860,* or any other law of this commonwealth, who shall have been charged with homicide, arson, rape, robbery, or burglary, or who shall have attempted, or endeavored, to commit any of said offenses, and who shall have been found to be insane, in the manner provided by law, unless on full examination, the jury shall find, by their verdict, that there is reason to believe that a cure of such insanity may be speedily effected, by sending such person to a lunatic hospital.

104. The commissioners of the several counties, hereinafter named, shall have power, to send to said hospital any indigent insane persons under their care, or confined in the jail of their respective counties, and not awaiting trial for any offense, or crime, punishable with imprisonment, or death, provided, the physician of said hospital shall deem them proper subjects for treatment in said hospital; the county, on sending any insane person, or persons, to be liable to pay to said hospital, all expenses of the care, medical attendance, maintenance, removal to, and from the hospital, and in case of death, the funeral expenses of such persons; and the several constituted authorities, having charge of the poor in the respective counties, cities, townships and poor districts in the counties hereinafter named, shall have like power to send to said hospital such indigent insane persons, under their charge, as they may deem proper subjects, and the counties, wherein such poor districts are situate, shall be severally liable to pay the expenses of the care, medical attendance, maintenance, (not exceeding two dollars and fifty cents per week,) removal to, and from, the hos-

Ibid § 3.
County, city
and township
authorities
may send to
hospital indi-
gent insane
under their
care.

Liability for
expenses.

* See pl. 63-65, *supra*.

pital, and, in case of death, the funeral expenses of such paupers, with remedy over against the proper poor district, as hereinafter provided.

105. The provisions of the first section of the act of 24th March, 1858,* relative to the transfer of insane convicts, from the western state penitentiary to the said hospital, shall continue in full force, as if here re-enacted; *provided*, that a duplicate, original, of the certificate, and report, with the approval of the governor thereon, shall be furnished to the solicitor of said hospital, when any such insane convicts are removed to said hospital.

Ibid § 4.
Provisions for
transfer of in-
sane from pen-
itentiary to
continue.

106. It shall be lawful, in case any person shall apply to any court of record, within this commonwealth, within any of the counties hereinafter named, having jurisdiction of offenses, punishable by imprisonment, for a term of ninety days, or longer, or to a judge thereof, for the commitment to said hospital, of any person alleged to be temporarily insane, by reason of the intemperate use of intoxicating drinks, for such court, or a judge thereof, to inquire, summarily, into the facts of the case, first however, giving notice to the party so alleged to be temporarily insane; and if such court, or a judge thereof, deem it expedient so to do, to commit such person to said hospital, until such temporary fit of insanity shall be cured; *provided*, that such applicant, or petitioner, or the friends, or relatives, of such inebriate, shall first give sufficient security, to be approved by such court, or judge, conditioned for the payment of all expenses of such proceedings, of the care, medical attendance, maintenance, removal to, and from, the hospital, and in case of death, of the funeral expenses of such inebriate; and further conditioned, to indemnify said hospital for all expenses, of any proceedings under any writ of habeas corpus, which may be awarded for the purpose of removing, or liberating, such inebriate from the custody of said hospital.

Ibid § 5.
Commitment
of inebriates
temporarily
insane, rela-
tive to.

Security for
expenses to
be given.

Indemnity for
expenses of
proceeding
under writ
of habeas
corpus.

107. In every case, where a lunatic, or insane person, has been, or shall be, committed to said hospital, under the provisions of the second section of this act, or of

Ibid § 6.
Criminals
whose insan-
ity is consid-

* See pl. 101, *supra*.

the sixty-sixth, sixty-seventh, or sixty-eighth sections of the act of thirty-first of March, 1860, referred to in said second section of this act,* and in all cases, where an insane person has been, or shall be, removed, or sent to said hospital, from the western state penitentiary, or from any jail, or prison, in this commonwealth, in the manner hereinbefore provided, or by virtue of any law of this commonwealth, it shall be lawful for the managers of said hospital, or a quorum thereof, with the aid of the principal physician of the insane department of said hospital, carefully to inquire into the case of such lunatic, and if a majority of such quorum of the board of managers, including the physician, shall be satisfied that there is no reasonable prospect of a cure of the insanity being effected, by a retention of such insane person in said hospital, they may, at the expense of the proper city, or county, as the case may be, cause him, or her, to be sent to the jail, or prison, of the proper county, or to the penitentiary, from which such insane person was sent.

ered incurable by physician and managers to be returned to the prison or penitentiary.

108. In case of any indigent insane person, not included in the provisions of the preceding section of this act, the expense of whose care and maintenance shall, by law, be chargeable to any county, city, or poor district, of this commonwealth, and who shall be an inmate of said hospital, where a quorum of the board of managers of said hospital, including the physician of the insane department, shall be satisfied that there is no reasonable prospect of a cure being effected, by a retention of such insane person in said hospital, it shall be lawful for said hospital to return such insane person to the commissioners of the county, or to the constituted authorities, having charge of the poor in the city, township, or poor district, which may be chargeable as aforesaid.

Ibid § 7. Indigent insane regarded as incurable to be returned to commissioners or other authorities.

109. In case the principal physician of the insane department of said hospital, after careful examination of the case of any insane person, being an inmate of said hospital, shall be satisfied that such person is cured of his, or her, insanity, it shall be the duty of such physician, with the approval of the board of managers,

Ibid § 8. The solicitor to notify the sheriff of cases of criminals cured.

* See pl. 103, *supra*.

in case such insane person has been committed to said hospital by any court of this commonwealth, excepting in cases included in the provisions of the first and fifth sections of this act, to furnish a certificate thereof, with the original certificate of commitment, to the solicitor of said hospital, whose duty it shall be to notify the sheriff, of the proper county, to remove

Duty of
sheriff.

the said inmate of said hospital, forthwith, at the expense of such county; and thereupon, such sheriff shall remove such person to the jail of the proper county, there to be held in strict custody, subject to the further order, decree, or sentence, of the court, by which such person was committed to said hospital; and in case such sheriff shall fail or neglect, within thirty days after such notice, to return such person from the said hospital, the physician of said hospital may proceed to return such cured person to the jail of the proper county, at the expense of such county.

Failure to re-
move, relative
to.

110. In case the principal physician of the insane department of said hospital, after careful examination of the case of any insane person, who shall have been sent to the said hospital, under the provisions of the third section of this act, shall be satisfied that such person is cured of his, or her, insanity, it shall be the duty of said physician, by direction of the board of managers, to notify the commissioners of the proper county, which is chargeable with the expenses of the care and maintenance of such person, to remove such cured person from the hospital, and in case they fail so to do, within thirty days after such notice, the physician of said hospital shall proceed to send such cured person to the commissioners of said county, or to the jail, poor-house, or other place, from whence they came, at the expense of such county.

Ibid § 9.
Physician to
give notice to
commission-
ers, etc., of
indigent in-
sane cured.

Removal of.

111. On the petition of any of the friends, or relatives, of any insane person, who may now, or hereafter, be confined in said hospital, who may not have been removed to said hospital from the western state penitentiary, or who may not have been committed to said hospital, under the provisions of the sixty-seventh section of the act of thirty-first March, 1860,* relative

Ibid § 10.
Proceedings
in case of ap-
plication to
court of Alle-
gheny county
for the dis-
charge of in-
mates.

* See pl. 64, supra.

to criminal procedure, to the court of common pleas of Allegheny county, or to the president, or other law judge of said court, in vacation, accompanied by the oath or affirmation of such applicant, or applicants, that the insane person is, in their opinion, safe to be at large, it shall be lawful for said court, or a judge thereof, at their, or his, discretion, where the same may be done with safety to the community, to deliver over the person, so confined, to such friends, or relatives; but before ordering the delivery over, of such lunatic, said court, or judge, shall cause notice of such application to be served by the applicant, on the solicitor of said hospital, at least ten days before the hearing; and further, may require security to be given, in such sum as the court, or judge, may direct, in the name of commonwealth, that such lunatic, or insane person, shall be well cared for, and shall do no injury to the person, or property, of any one, when at large, and shall not become chargeable on any county, or poor district, of this commonwealth, for, and during, such term of time as the court, or the judge, may direct.

Notice to be served on solicitor.

Security required.

112. Whenever any insane persons are committed to said hospital, under the provisions of the second section of this act, or of the sixty-sixth, sixty-seventh, or sixty-eighth, sections of the act of thirty-first March, 1860, hereinbefore referred to,* it shall be the duty of the court to institute the inquiries required in the first section of this act, as to the pecuniary circumstances of such insane person, or persons, and their place of legal settlement, or residence, and to give the notices, therein provided for, to the commissioners of the county, and authorities having charge of the poor, in the poor district to which such insane person belongs, by settlement, or residence, and to certify the same to the managers, or solicitor, of said hospital, as therein provided for.

Ibid § 11. Inquiries of court, etc., as required in the first section to be made in cases of insane criminals, and certified to managers.

113. Whenever any insane person is committed to said hospital, by any court, or transferred to said hospital from the western state penitentiary; or sent to said hospital by the commissioners of any county, or by the constituted authorities having charge of the poor,

Ibid § 12. Liability of counties for all expenses.

Counties to have remedy against the

* See pl. 63-65, supra.

proper town-
ship, city or
poor district
liable for the
support of
such as are
paupers.

Overseers or
guardians of
poor may col-
lect from
property of
insane or
relatives.

in any city, township, or poor district, in this commonwealth, the county, where such insane person had a legal settlement, or residence, or from which, he or she was sent, or where the trial, or proceedings were had, under which, he or she was committed, or sent to said hospital, as the case may be, shall be liable to said hospital, for the expenses of his, or her, care, medical attendance, maintenance, removal to, and from, the hospital, and in case of death, for funeral expenses, as in hereinbefore, and by the laws of this commonwealth, provided; but in all such cases, the county, so chargeable, shall have remedy over against the proper township, city, or poor district, where, by existing laws, such township, city, or poor district is liable for the support of such insane persons, where paupers, or against the property of such insane person, or against any relative, required by law to maintain him, or her; and the overseers, or guardians, of the poor, of any such township, city, or poor district, shall also have remedy over against the property of such insane person, or against any relative required by law to support, or maintain, him, or her.

114. The said hospital may ask, demand, receive and collect, from any guardian, or overseer of the poor, or of any city, township, or poor district, any amount which may be due to them, for the care, maintenance, medical attendance, or other expenses, of any insane persons, with which, such guardians, or overseers of the poor, may be chargeable, without impairing their right to collect any amount due and unpaid, from the county, or counties, liable to the said hospital therefor, as aforesaid; and in all cases, where money is now due, or shall hereafter become due, to said hospital, from any township, city, poor district, or county, for the care, medical attendance, maintenance, funeral, or other expenses of any insane person, or persons, committed, or sent, to said hospital, it shall be lawful for the solicitor of said hospital to cause a statement of the account with notice of the amount claimed to be due, and unpaid, to be served on one, or more, of the commissioners of the proper county, or of the overseers, or guardians, of the poor of the city, township, or poor district, chargeable therewith, and if the same be not paid within thirty days after such notice,

Ibid § 13,
as amended
1864, p. 451,
§ 5.
Mode of col-
lection from
counties, etc.

Solicitor may
bring suit
therefor.

and demand, it shall be lawful for the solicitor of said hospital to bring suit therefor, in the corporate name of said hospital, against any such county, city, or township, which may be indebted as aforesaid, in the court of common pleas of Allegheny county, or in the district court of said county, to collect the amount so claimed to be due, [whether] such amount exceeds the sum of one hundred dollars, or otherwise; and such actions shall be entitled to like precedence as suits for claims due to the commonwealth.

115. In all cases, where an insane person is committed to said hospital, by any court authorized so to do, a certified copy of the commitment shall be furnished to the solicitor of the hospital, and also to the principal physician of the insane department, before, or at the time when, such insane person is sent to said hospital, which shall be evidence in any suit brought by the hospital to receive [recover] the amount due for the expenses of such insane person, and no defense shall be taken by any county, township, city, or poor district in any suit brought against them to receive [recover] the amount of such expenses, on account of any defect, or informality, in such commitment on the record thereof, nor by reason of the failure of the court making such commitment, to give the notices, or certificates, required by the first and eleventh sections of this act.

Ibid § 14.
A certified copy of commitment to be furnished to solicitor and physician.

To be evidence in suit to recover expenses. No defense to be taken account of informality.

116. In all cases, where any county shall be liable, as aforesaid, to the said hospital, for any amount of the expenses of any insane persons, and the amount due to said hospital, by such county, shall remain unpaid for three months after demand, and notice of the amount due, served with a statement of the account on the commissioners of such county, or a majority of them, it shall be lawful for the managers of said hospital to return, to the jail of said county, those insane persons, whose expenses are due, and remain unpaid by said county, excepting such as may have been removed to said hospital from the western state penitentiary, and said hospital shall also have the right to collect the amount due by said county, in the manner provided in the thirteenth section of this act.

Ibid § 15.
Managers may return to jail those, whose expenses remain unpaid for three months.

117. In order of admission of patients to the hospitals, re-

Ibid § 16.
Order of ad-
mission of pa-
tients.

cent cases shall have preference over those of long standing, and, as far as the capacity of the hospital will permit, the indigent insane, shall have precedence of paying patients.

Ibid § 17.
Charges for
indigent in-
sane.

118. The said hospital shall charge for all indigent insane persons, committed to their charge, by any court, or courts, of this commonwealth, or sent there by the commissioners of any county, or the constituted authorities having charge of the poor, or removed thither from the western state penitentiary, such reasonable amount, for the care, medical attendance and maintenance, including clothing, and for funeral, and other, expenses, as may be fixed, from time to time, in manner following, to wit: the board of managers shall, at any regular meeting, fix the rate to be charged, per week, for the care, medical attendance and maintenance of indigent insane persons, at as low a rate, not below the actual cost thereof, and not exceeding two dollars and fifty cents per week, as the financial condition of the institution will, in their judgment, permit, providing therein for special cases, in which extra attendance is required: *provided*, that in the notices, to the managers, calling such meeting, it shall be stated, that the rate to be charged to indigent insane persons, is to be fixed thereat, and the rate, so fixed, shall continue for at least three months thereafter, and until the same is altered, at a meeting of the board of managers, called for that purpose; but for those insane patients, who are not indigent, and whose estate is adequate, or whose friends are willing to pay their expenses, the hospital may charge such terms as the board of managers may direct.*

Ibid § 18.
Counties from
which insane
persons may
be committed
or sent.

119. The counties of this commonwealth, from which insane persons may be committed, or sent, at the expense of such counties, to said hospital, are the following, to wit: Armstrong, Allegheny, Beaver, Butler, Cambria, Clarion, Clearfield, Crawford, Erie, Elk, Forest, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, McKean, Somerset, Venango, Washington, Warren and Westmoreland, and such counties as may hereafter be erected therefrom.†

* But see pl. 54, *supra*.

† See note, pl. 99, *supra*.

120. The ground now owned, or which may be hereafter purchased by said hospital, shall not be subject to have any public street, lane, alley, or road laid out, or opened, through it, so long as the same shall be held, used and employed, for the purpose of said hospital; and any road, or right of way, heretofore existing, through any part of the property so owned, used and occupied by said hospital, which shall not have been laid out, by order of court, or by actual grant or conveyance, duly recorded, shall be and the same is hereby vacated.

Ibid § 19.
Opening of
streets or
roads through
grounds pro-
hibited.

Roads or
rights of way
heretofore ex-
isting
vacated.

121. The provisions of the third section of the act, to which this is a supplement,* shall apply to the case of any person, confined in the common jail of any of the counties, mentioned in the eighteenth section of said act, by the sentence or order of any court of competent jurisdiction, in any such county, and who shall not be under sentence of death: *provided*, that the principal physician, of the insane department of the western Pennsylvania hospital, shall deem such person to be insane, and a fit subject for treatment in said hospital, and that the order for the removal of such insane criminal shall be approved by the court, by which he or she was sentenced, or by one of the judges thereof.

Act of 1864,
p. 451, § 1.
Provisions
relative to re-
moval of in-
sane from
jails, to whom
to apply.

122. When any insane person shall have been committed to said hospital, by any court having authority so to do, or has been removed thither from the western state penitentiary, under the provisions of act of assembly of this commonwealth, of 24th of March, 1858,† or from the common jail of any county in this commonwealth, as provided by the first section of this act, and the term of sentence of such criminal shall expire while he or she is still an inmate of said hospital, the county, from which such insane criminal was committed to said penitentiary, jail, or hospital, shall be liable to pay for the medical attendance, maintenance, and clothing, of such insane person, for so long as he or she shall remain in said hospital; and in case of his or her death, or removal therefrom, the funeral expenses, or expenses of removal, as the case may be.

Ibid § 2.
Liability of
counties for
expenses of
insane crimi-
nals.

* Act of 1863, *supra*, pl. 104.

† See pl. 101, *supra*.

123. All writs issued by the court of common pleas, or district court of Allegheny county, in any suit brought against any county, city, or township, by the said hospital, shall be directed to the sheriff of the county, against which, such suit is instituted, or to which, such city or township belongs, and shall be served, or executed, by such sheriff, according to the exigency thereof; and such sheriff shall make return thereof, without delay, according to law, to the office of the prothonotary of the court, from which the same were issued.

Ibid § 4.
Service of
process.

Writs issued
to be directed
to sheriffs of
respective
counties.

124. From and after the passage of this act, when any insane or indigent person not cared for, nor claimed by the authorities of either or any poor district of Allegheny county, shall have been taken into custody by any officer authorized to make arrest, or if detained by any captain of the watch or other municipal authority, or by the warden or assistant warden of the county jail, or any officer having charge of any police station or jail in this county, it shall be incumbent upon such officers so detaining such insane or indigent person to present a petition to the judges of the court of common pleas of Allegheny county within twenty-four hours after said person shall have been placed in his custody, accompanied by the evidence or affidavit of two reputable citizens, setting forth the condition of such insane or indigent person requesting the immediate action of said court.

Acts of 1872,
p. 985, § 1.
Officers ar-
resting and
having
charge of in-
sane or indi-
gent person,
to petition,
court.

125. The said judges upon such showing shall, as their judgment may direct, order such insane or indigent person to be conveyed forthwith to either the Allegheny county home, the Allegheny City poorhouse, the city farm of the guardians of the poor of the city of Pittsburgh, or the western Pennsylvania hospital, at Dixmont, there to be properly cared for by the authorities of said institution or either or any of them.

Ibid § 2.
Court to or-
der such per-
sons to be con-
veyed to Alle-
gheny county
home, etc.

126. The cost of maintaining such indigent or insane person shall be chargeable upon the poor authorities of the settlement last had by said insane or indigent person, if said settlement shall be discovered within sixty days after the order shall have been made, if not then to the district to which such indigent or insane person is ordered

Ibid § 3.
Cost of main-
taining such
persons.

by said court; *provided*, that this section shall not be so construed as to prevent said district from recovering said costs from the poor authorities of said settlement.

DANVILLE ASYLUM.*

127. The governor shall nominate, and by and with the advice and consent of the senate, appoint nine persons to be trustees of the said institution, who shall be a body politic or corporate, by the name and style of the trustees of the state hospital for the insane at Danville, Pennsylvania, and shall manage and direct the concerns of the institution and make all necessary by-laws and regulations, not inconsistent with the constitution and laws of the commonwealth, and shall have power to receive, hold, dispose of and convey any real and personal property conveyed to them by gift, devise or otherwise, for the use of said institution, and shall serve without compensation; of those first appointed, three shall serve for one year, three for two years and three for three years, and at the expiration of the respective periods, the vacancies shall be filled by appointment for three years; and should any vacancy occur, by death or resignation, of any trustee such vacancy shall be filled by appointment for the unexpired term of such trustee; the said trustees shall have charge of the general interests of the institution; they shall appoint the superintendent who shall be a skilful physician, familiar with the treatment of the insane, subject to removal or re-election no oftener than in periods of ten years, except by infidelity to the trust reposed in him or for incompetency; said physician shall always reside in the hospital, shall be a married man, and his family shall reside with him; the trustees shall also appoint a treasurer, who shall give bonds to the commonwealth for the faithful discharge of his duties; they shall determine his compensation for services, also the salaries of the other officers and assistants who may be necessary for the just and economical administration of the affairs of said hospital.

Act of 1873,
p. 54, § 1.
Laws relating
to state hos-
pital for the
insane at Dan-
ville.

Trustees to
be appointed.

To be a cor-
poration.

Their duties
and powers.

Superintend-
ent to be a
physician.

Treasurer.

* By the act of 1868, p. 90, commissioners were appointed to select a site for an additional asylum for the northern district of the state, and the asylum has been built at Danville.

128. The superintending physician shall appoint and exercise entire control over all subordinate officers and assistants in the institution, and shall have entire direction of the duties of the same.

*Ibid § 2.
Powers of
superintend-
ing physician.*

129. The said trustees, and their successors in office, shall have power to take and hold in trust, for the use and benefit of said hospital, any grant or devise of land, and any donation or bequest of money or other personal property, to be applied to the maintenance of insane persons in or to the general use of the hospital.

*Ibid § 3.
Power to hold
property.*

130. The several sections of the act of assembly, approved, April fourteenth, one thousand eight hundred and forty-five, from section eight to section fifteen,* inclusive, also the several sections of the act of assembly, approved April eighth, one thousand eight hundred and sixty-one, from section one to section five, inclusive,† are hereby extended and made applicable to the state hospital for the insane at Danville.

*Ibid § 4.
Certain pro-
visions appli-
cable to hos-
pital.*

131. On the application of the friends or relatives of any insane person now or who may hereafter be confined in said hospital, to the court of common pleas of Montour county, or to the president judge of said court in vacation, it shall be lawful for said court or judge, where the same may be done with safety to the community, to deliver over to such friends or relatives the person so confined; but before so delivering over such insane person said court or judge may require sufficient security to be given, in the name of the commonwealth, that such insane person shall do no injury to the person or property of any one when at large, to continue during such term of time as the court or judge may direct.

*Ibid § 5.
When insane
persons are to
be delivered
to their
relatives.*

*Security may
be required.*

132. The several insane persons sent to the Pennsylvania state lunatic hospital at Harrisburg, by the order of the court of any county of the northern district named in the act establishing the state hospital for the insane at Danville, may be removed to said hospital at Danville, by the authorities of the counties from

*Ibid § 6.
Certain of the
insane in the
hospital at
Harrisburg
may be re-
moved to.*

* See pl. 80-88, *supra*.

† See pl. 91-95, *supra*.

which they were sent to the hospital at Harrisburg, and the original order directing said commitment shall have the like force and effect as to their commitment and detention in the said hospital at Danville.

133. * * * The northern district of this state, composed of the counties of Monroe, Carbon, Pike, Wayne, Susquehanna, Wyoming, Luzerne, Columbia, Montour, Sullivan, Bradford, Lycoming, Tioga, Clinton, Centre, Clearfield, Elk, Cameron, McKean, and Potter, [Northumberland, Union, and Snyder]. * * * *

Act of 1868,
p. 90, § 1,
as amended
76. p. 175, § 2.
Counties of
the northern
district.

WARREN ASYLUM.*

134. The governor shall nominate and, by and with the advice and consent of the senate, appoint nine persons to be trustees of said hospital, who, under the name and title of the "Trustees of the State Hospital for the Insane at Warren, Pennsylvania," shall manage and direct the concerns of the institution and make all necessary by-laws and regulations not inconsistent with the constitution and laws of the commonwealth, and shall have power to receive, hold, dispose of and convey all real and personal property, purchased by or conveyed to them by gift, devise or otherwise, in trust for the use of said institution, and shall serve without compensation; of those first appointed three shall serve for one year, three for two years, three for three years, and at the expiration of the respective periods the vacancies shall be filled by appointment for three years as hereinbefore provided, and, should any vacancy occur by death, resignation or otherwise of any trustee, such vacancy shall be filled by appointment as aforesaid for the unexpired term of such trustee.

Act of 1881,
p. 83, § 1.
Governor to
appoint trustees.

Style.

Power to take
title to real
estate.

Term.

135. Not more than three trustees shall be appointed from, or be resident in, any one county at any one time, nor shall any trustee be in any wise interested, directly or indirectly, in any purchase for, or furnishing to, the hospital of any article of any kind, intended for the use of said hospital.

Ibid § 2.
Residence of
trustees; not
to be inter-
ested in sup-
plies.

* By the act of 1873, P. L. 1874, p. 333, commissioners were appointed to select a site for an additional asylum for the northwestern district of the state, and the asylum has been built at Warren.

136. The said trustees shall have charge of the general interests of the institution, shall visit and examine the hospital, either as a body or by committee, at least once in every month; they shall appoint the superintendent, who shall be a skilful physician, subject to removal or re-election no oftener than in periods of five years, except for infidelity to the trust reposed in him, or for incompetency; said physician shall always reside in the hospital and his family shall reside with him. The board of trustees may appoint a skilful female physician to have immediate charge of the female department of said hospital, under the supervision of the superintendent and the trustees, and who shall be appointed for a term of five years, unless dismissed for incompetency or unfaithfulness in the performance of her duties, and shall be subject to such orders and regulations as the said board of trustees may prescribe.

137. The trustees, by and with the consent of the governor, shall make such by-laws and regulations as shall be necessary; they shall appoint a treasurer, who shall give bonds to the commonwealth for the faithful performance of his duties, they shall determine his compensation for services, also the salaries of the other officers and assistants of different kinds, who may be necessary for the just and economical administration of the affairs of the hospital.

138. The trustees shall appoint, or authorize the appointment of, and exercise control over, all officers and assistants in the institution, and shall have direction of the duties of the same, subject, however, to the existing laws, regulating and prescribing the duties of officers of such institutions.

139. The said trustees, and their successors in office, shall have power to take and hold, in trust for the use and benefit of said hospital, any grant or devise of land or any donation or bequest of money or other personal property, to be applied to the maintenance of insane persons in or to the general use of the hospital.

140. The courts of this commonwealth shall have power to commit to said hospital any person who, having been charged with any offense punishable by imprisonment or death, shall have been found to have

Ibid § 3.
Duties of
trustees.

Superintend-
ent.

Female phy-
sician.

Ibid § 4.
By-laws.

Trustees to
fix salaries of
officers.

Ibid § 5.
And appoint
officers, etc.

Ibid § 6.
To take under
devise or
bequests.

Ibid § 7.
Courts to com-
mit insane
criminals.

been insane, in the manner now provided by law, at the time the offense was committed, and who still continues insane; and the expenses of said person, if in indigent circumstances, shall be paid by the county to which he or she may belong by residence.

County to pay expenses.

141. The authorities of the several poor districts, within that portion of the state comprising the district for the said hospital, shall have authority, in their discretion to send to the said hospital the indigent insane under their charge; the amount to be charged for the support of such insane persons, committed by the court, or of any insane indigent person sent to the said hospital by the poor authorities of a poor district, shall not exceed three dollars per week.

Ibid § 8.
Poor districts may commit insane.

Charges of support.

142. The governor, lieutenant-governor, judges of the several courts of record in the commonwealth and members of the legislature shall be ex-officio visitors of the hospital.

Ibid § 9.
Visitors.

143. The governor shall appoint three commissioners to select a site and build a hospital for the insane of the northwestern district of the state, composed of the counties of Erie, Crawford, Mercer, Venango, Warren, McKean, Elk, Forest, Cameron and Clarion; said commissioners shall not receive any compensation for the services herein imposed upon them, except the actual traveling expenses incurred in the discharge of their duties; nor shall said commissioners be concerned, in any way, in any contract for the erection of said building or for furnishing supplies of any kind for the same.

Act of 1874,
p. 313, § 1.
Governor to appoint commissioners.

Not to receive compensation or be interested in contracts.

NORRISTOWN ASYLUM.

144. The governor shall appoint ten commissioners to select a site and build an hospital for the insane for the southeastern district of Pennsylvania,* embracing the city and county of Philadelphia, and the counties of Bucks, Montgomery, Delaware, Chester, Northampton and Lehigh; * * *

Act of 1876,
p. 121, § 1.
Governor to appoint commissioners.

145. The said commissioners upon the completion of said

* The site selected was Norristown and the asylum has since been built.

Ibid § 8.
Board of trustees for hospital on completion of same. hospital, shall surrender their trust to a board of managers, to consist of thirteen members, five of whom shall be appointed by the governor from the state at large, two by the councils of the city of Philadelphia, and one by the county commissioners of each of the other counties embraced in the southeastern district herein described. Said managers or trustees shall be a body politic or corporate, by the name and style of the trustees of the state hospital for the insane of the southeastern district of Pennsylvania, they shall serve without compensation, and shall manage and direct the concerns of the institution and shall make all necessary by-laws and regulations not inconsistent with the constitution and laws of the commonwealth.

To be a body corporate.

Name.

Powers and duties.

146. This hospital shall be specially devoted to the reception, care and treatment of the indigent insane, and in the order of admission this class shall have precedence over paying patients.

Ibid § 9.
To be devoted to care of indigent insane.

147. The several constituted authorities having the care and charge of the poor in the respective city and counties named in this act, shall have authority to send to this hospital such indigent insane under their charge as they may deem proper subjects, and they shall be generally chargeable with the expenses of the care and maintenance and removal to and from the hospital for such indigent insane.

Ibid § 10.
Authorities in charge of poor may send same to hospital.

148. The rights which now reside in the courts, as to the commitment of the insane to the state hospital, shall be possessed by the several courts of the aforesaid southeastern district of Pennsylvania in relation to the hospital herein named.

Ibid § 11.
Powers of courts to commit insane.

149. The governor, judges of the several courts of record of the commonwealth, and members of the legislature, shall be ex-officio visitors of the institution.

Ibid § 12.
Visitors.

RHODE ISLAND.

GOVERNMENT OF STATE INSTITUTIONS FOR INSANE.

1. Board of state charities and correction, how constituted.
2. Term of office, vacancies how filled.
3. Secretary, appointment, term of office, bond, duties.
4. Control of institutions for insane vested in board.
5. Members receive no compensation; exemption from militia and jury duty.
6. Agent, appointment, duties.
7. Superintendent of institutions at Cranston, appointment, duties; deputy superintendent.

ADMISSION AND DISCHARGE.

8. Dangerous insane, complaint, arrest.
9. Examination, commitment, subsequent release.
10. Form of warrants, power of officer.
11. Costs of proceedings how paid.
12. Costs, how recovered.
13. Petition for commission of lunacy.
14. Inquisition, powers and duties of commissioners.
15. Detention pending inquisition.
16. Reports of commissioners, commitment by judge.
17. Patients not cured, when discharged.
18. Commitment by relatives, physicians' certificate.
19. Superintendent and officers, exemption from prosecution.
20. Removal from asylum.
21. Discharge of patients, regulations.
22. Allegation of sanity, commission of lunacy, proceedings for appointment.
23. Proceedings thereon.
24. Personal examination; how conducted.

25. Report and decree.
26. Habeas corpus allowed.
27. Commission, expenses how borne.
28. Commissioners, compensation.
29. Complaints relating to patients, examination.
30. Inspection by commission.
31. Communication by patients with commission to be unrestrained.
32. Violation of duty or cruelty, prosecution for.
33. Certain sections of the law to be posted in the asylum.
34. Officers, neglect of duty, penalty.
35. Illegal confinement, inhumanity, complaints of, removal to asylum.
36. Support, how borne.
37. Definition of "insane person."
38. Indigent insane with no settlement, commitment.
39. Those with legal settlement, when admitted.
40. Indigent insane as state beneficiaries.
41. State agent, duty to visit, powers.
42. Indigent insane, detention of
43. Removal of, neglect, expenses.
44. Private patients received.

CRIMINAL INSANE.

45. Persons acquitted on ground of insanity, disposition of.
46. Support, how borne, suit to recover.
47. Convicts, alleged to be insane, examination.
48. Insane convicts, removal to asylum.
49. Removal to asylum, for what term.
50. On recovery, remanded to prison.
51. Examination, expenses, how borne.
52. Persons awaiting trial alleged to be insane, examination.
53. Removal to asylum.
54. Remanded upon restoration.
55. Examination, expenses of.

1. The board of state charities and corrections shall consist of nine persons, three from the county of Providence, one from each of the other counties, and one

Public Statutes of 1882,
ch. 254, § 1.
Board of state

charities and
corrections;
number of.

from the state at large, together with such person as may be appointed secretary of the board.

Ibid § 2.
How ap-
pointed and
term of.

2. The governor, by and with the advice and consent of the senate, shall annually at the May session of the general assembly, upon the expiration of the term of office of any one of the said board, appoint a person to such office, and every such person so appointed shall hold his office for six years unless sooner removed. Every appointment to fill a vacancy shall be for the remainder of the term.

Vacancy, how
filled.

Ibid § 3.
Secretary of,
appointment,
bond and
duties.

3. Said board may appoint a secretary, who shall, by virtue of his office, be a member of the board; he shall hold his office during the pleasure of said board; he shall give bond to the state in such sum as the board may require for the faithful performance of his duties; he shall keep a record of all the doings of the board, and shall perform such other duties as may be by them required.

Ibid § 4.
Management
by board of
state charities.

4. The oversight, management and control of the state farm in Cranston, * * * of the state asylum for the incurable insane * * *, shall be vested in the board of state charities and corrections.

Ibid § 5.
To receive no
compensation,
except, etc.

5. No member of the board, except the secretary, shall receive any compensation for his services, but every member shall be paid out of the state treasury his necessary traveling expenses and shall be exempted from military and jury duty.

Ibid § 6.
Agent of state
charities and
corrections,
appointment
and duties of.

6. The board shall appoint an agent of state charities and corrections, who shall hold his office during their pleasure. He shall, under their direction, have the general charge of the examination of paupers and lunatics for the purpose of ascertaining their place of settlement and means of support and who is liable for their support, and also attend to their removal to their homes or places of settlement or to the state almshouse or to the asylum for the incurable insane, and shall have like power and authority in respect thereto as is conferred upon the overseers of the poor, and shall perform such other duties as may be required of him by the board.

7. The board shall appoint a superintendent of the state institutions in Cranston, who shall hold his office

Ibid § 7.

during their pleasure. Such officer shall, under their direction have the control and management of the * * * state asylum for the incurable insane * * * and report to the board from time to time upon their condition and management. The board shall, upon the nomination of the superintendent of the state institutions, appoint a * * * deputy superintendent of the state asylum for the incurable insane, * * * who shall hold their respective offices during the pleasure of the board. Said superintendent shall appoint all the assistants to the deputy superintendents and such other persons employed upon said state farm as the board shall deem necessary and shall discharge the same at his pleasure. The board shall fix the compensation of their secretary and of the superintendent of the state institutions, the agent of state charities and corrections, the deputy superintendents and their assistants, * * * and all other persons employed in any manner upon said state farm and the institutions thereon, adopt all needful rules and regulations for the government of the institutions upon said farm, and make contracts for the labor of the inmates thereof.

Supt. of state institutions in Cranston, appointment and duties of.

Or deputy supt.

8. Whenever complaint in writing and under oath shall be made to any trial justice or clerk of a justice court, that any person within the county is a lunatic, or so furiously mad as to render it dangerous to the peace or safety of the good people of the state for him to be at large, and that such person is at large, such trial justice or clerk shall issue his warrant under his hand and seal returnable forthwith directed to the sheriff, deputy sheriffs, town sergeants or constables in said county, requiring the officer charged therewith to apprehend such person and have him, with such warrant, before such or some other justice court for examination relative to such complaint.

Ch. 74, § 1.
Complaint against person furiously mad and at large, how made and directed.

9. If the court on such examination shall adjudge such complaint to be true, it shall, unless a recognizance satisfactory to said court be then given before it that said person shall not be permitted to go at large until restored to soundness of mind, commit such person by warrant under its hand and seal to the Butler hospital for the insane or to the state asylum for the insane, there to be detained until in the judgment of some

Ibid § 2.
Of examination and proceedings on return of warrant, and commitment of mad persons.

justice court of the county in which he may be detained he shall, upon inspection and examination, be declared to be restored to soundness of mind, or to be no longer under the necessity of restraint, or until recognizance as aforesaid, satisfactory to such court, shall be given.

10. The court shall, in its warrant of commitment, state the town in which such lunatic or mad person was arrested; and the officer charged with the execution thereof shall have the same power to commit such person to the Butler hospital for the insane as though said hospital were within his precinct.

*Ibid § 3.
Form of warrant of commitment;
duty of officer.*

11. The costs of apprehending, examining, committing and detaining such lunatic or mad person shall be paid by such person if he have any estate; otherwise, in the first instance, and until the liability of some other town in the state for the maintenance of such person is admitted by such town, or ascertained by proper proceedings, by the town in which such person shall have been apprehended.

*Ibid § 4.
Costs of proceedings and detention,
how paid.*

12. Whenever any person or town chargeable with the costs and expense of apprehending, committing and detaining or keeping any such lunatic or mad person, shall neglect to pay the same or either or any part thereof, it shall the duty of the committing court, and the right of the superintendent of said hospital, or of the superintendent of the state institutions in Cranston if he be committed thereto, to give notice of such neglect to the attorney-general, who shall, in the name and at the expense of the state, commence an action of the case in behalf and for the benefit of all persons interested, against the person or town so neglecting, for the recovery of such costs and expenses, or either of the same, and prosecute the same to final judgment and execution.

*Ibid § 5.
How recovered of person or town liable.*

13. On petition under oath setting forth that any person is insane and that the welfare of such person or of others requires him to be placed in a hospital for the insane or to be restrained, any justice of the supreme court may forthwith appoint not less than three commissioners to inquire into the condition of the subject of such petition and to report all facts connected with or bearing upon the same, together with their opinion whether such person, if insane, should be placed in such hospital or the state asylum for the insane, either for cure or restraint.

*Ibid § 6.
Of petition for commission of lunacy.*

14. Before said commissioners shall proceed with their inquisition, they shall be sworn by the justice to the faithful and impartial execution of their duties, and shall give due notice to the person complained of as insane, of their appointment and of the time and place of hearing, in order that he may have an opportunity by evidence, by his own statements, and by counsel, to defend himself against the charge of said petition; and said commissioners may issue summons to and compel the attendance of and swear witnesses; and shall hear all evidence offered to them on either side touching the merits of the petition, as well as examine the subject of the petition himself.

*Ibid § 7.
Of powers and
duties of com-
missioners,
and proceed-
ings before
them.*

15. Such justice may, if need be, upon the presentment to him of such petition, or afterwards, as occasion may require, issue a warrant, under his hand and seal, for the apprehension of the person complained of, and may order him to be detained in the custody of the officer to whom the warrant shall be directed, or to be committed to the Butler hospital for the insane, or the state asylum for the insane if he can be there received, or to the county jail, as will be most convenient and proper, pending the inquisition, in order to insure that such person shall be present to be examined by the commissioners, and to abide the final order of such justice upon said inquisition.

*Ibid § 8.
Of restraint
of lunatic,
pending com-
mission.*

16. Upon the coming in of the report of said commissioners, such justice may, with or without further hearing, confirm or disallow the same, and may order the person complained of to be confined in the Butler hospital for the insane, or at the state asylum for the insane if he can be there received, or in some other curative hospital for the insane of good repute, within or without the state, or may dismiss the petition altogether.

*Ibid § 9.
Of power of
judge upon
report of com-
missioners.*

17. Any person committed to any of such institutions, under the provisions of the preceding four sections may, although not restored to sanity, be discharged therefrom, upon the written recommendation of the trustees and superintendent thereof, by an order of any justice of the supreme court, to be made in his discretion.

*Ibid § 10.
Persons com-
mitted, when
may be dis-
charged
though not
cured.*

18. Insane persons may be removed to and placed in said Butler hospital or state asylum for the insane, if

*Ibid § 11.
Of committal*

of lunatics,
by parents,
friends, etc.

they can be there received, and if not, in any other curative hospital for the insane of good repute in this state, managed under the supervision of a board of officers appointed under the authority of this or some other state, by their parents or parent, or guardians, if any they have, and if not, by their relatives and friends, and if paupers, by the overseers of the poor of the towns to which they are chargeable; but the superintendent of said hospital shall not receive any person into his custody, in such case, without a certificate from two practicing physicians of good standing, known to him as such, that such person is insane.

19. Any person committed to the charge of any of said institutions for the insane, as aforesaid, in either of the modes hereinbefore prescribed, may be lawfully received and detained in said institution by the superintendent thereof, and by his keepers and servants, until discharged in one of the modes herein provided; and neither the superintendent of such institution, his keepers or servants, nor the trustees or agents of the same, shall be liable, civilly or criminally, for receiving or detaining any person so committed or detained.

20. The person or persons removing an insane person to, and placing him in, such institution within this state, and also the person or persons who, by their own free act and accord, and without any obligation imposed by law, have become responsible for the payment of the expenses of any such person at such institution, if necessary to terminate further responsibility, but none other, shall have the power of removing such person therefrom, except as herein-after provided.

21. The superintendent of such institution for the insane within this state may, on the application of any relative or friend, and with the approbation, in writing, of the visiting committee of the trustees, discharge from such institution any patient not committed by process of law.

22. On petition, under oath, of any person not confined in such institution for the insane, to a justice of the supreme court, setting forth that he has reason to believe and does believe that some person confined

Ibid § 12.
Power of
sup't to re-
ceive and de-
tain lunatics.

Ibid § 13.
Who may re-
move lunatics.

Ibid § 14.
Sup't may dis-
charge, when.

Ibid § 15.
Of commis-
sions to in-
quire into
sanity of per-
sons confined

therein is not insane and is unjustly deprived of his liberty, the said justice may, in his discretion, issue a like commission, as hereinbefore provided, for the purpose of inquiring into the condition of such person.

as lunatics,
proceedings
thereon.

23. In such case no notice shall be served upon the person confined as insane, nor shall he have the right to confer with counsel, to produce evidence or be present at the inquisition; but such notice shall be served on, and such rights shall be enjoyed solely by the petitioner; nor shall said petitioner, nor any counsel he may employ, nor any witness he may desire to use, have the right to visit or examine said insane person except with the permission of the superintendent of such institution, or according to its rules or by special order of the justice issuing the commission.

Ibid § 16.
Same subject.

24. The personal examination by the commissioners of such person detained as insane shall take place at the institution where such person is detained, and not elsewhere; and in case the commissioners deem it proper, it shall take place without the presence of the superintendent or any other person connected with such institution; nor shall such person so detained as insane be taken from the institution upon any pretence or for any purpose whatsoever, pending such commission.

Ibid § 17.
Same subject.

25. In other respects said commissioners shall, with like powers, proceed and report to the justice in like manner as before provided, who, upon the coming in of said report, may either confirm or disallow the same and order the discharge of such person, or dismiss the petition altogether, as the truth shall seem to him to require.

Ibid § 18.
Same subject.

26. Nothing in this chapter shall be so construed as to impair or abridge the right of any person to the writ of habeas corpus.

Ibid § 19.
Habeas cor-
pus.

27. No commission shall be issued by a justice of the supreme court, either for the purpose of confining or discharging from confinement an insane person, as contemplated by sections six and fifteen of this chapter, until the applicant therefor shall pay, or satisfactorily secure, to said justice all costs and expenses of the application, process, commission and commitment, as well as satisfy him, if the application be for the confinement of any insane person, that the

Ibid § 20.
Of expenses
of commis-
sions.

expenses of detaining such person in said institution for the insane will be paid or secured to the satisfaction of the proper authorities thereof.

28. The commissioners shall be allowed a reasonable compensation in addition to necessary expenses, to be allowed by the justice; and they shall return in items their charges for compensation and all costs and expenses of executing the commission, with their report, for allowance by the justice.

*Ibid § 21.
Compensation
of commis-
sioners.*

29. The agent of state charities and corrections and the secretary of state shall constitute a commission, whose duty it shall be to receive, read and examine all complaints, communications and letters to them, or either of them, made, directed or addressed, by or from, or relating to any inmate of any insane asylum, or any insane person, or any person alleged to be insane, restrained of his liberty, within this state, and they shall, whenever in their judgment they shall deem it advisable, cause an examination and inquiry to be made, and in their discretion petition any justice of the supreme court to have an examination of such person's condition made in manner provided in the preceding sections of this chapter, and such justice may thereupon, in his discretion, cause said person so restrained to be discharged.

*Ibid § 29.
Commission
on complaints
relating to in-
sane.*

30. The said commission, or either of the members thereof, shall from time to time in their discretion, visit every institution or place where any person insane, or alleged to be insane, is restrained of his liberty, and, alone or attended by others, as they shall elect, examine into the condition and complaint of any one so confined.

*Ibid § 30.
To visit in-
sane persons.*

31. The superintendents, officers, keepers and assistants, and other persons in charge wherever any insane person is confined, are forbidden and enjoined from, in any way or manner, interfering, hindering or preventing any person so confined from communicating at all times in manner as aforesaid, with the said commission, except after consultation and with the full consent in writing of the commission. And every such superintendent, officer, keeper, assistant or other person shall afford to every person under his charge, with the exception aforementioned, every facility for making such communications according to the true intent

*Ibid § 31.
Duty of per-
sons in charge
of the insane.*

and meaning hereof, and shall forward such communications to the said commission without delay.

32. Said commission, or either of them, upon probable cause, and upon complaint being made to them, supported by oath or affirmation, that any officer or person in charge of any one confined as insane has violated any of the provisions of this chapter, or has neglected any of the duties enjoined upon him by the provisions thereof, or has inhumanly or improperly treated any one so restrained as insane, shall cause complaint to be made before any justice court having jurisdiction and prosecute the same to final judgment.

*Ibid § 32.
Prosecutions
for violation
of this chap-
ter.*

33. A printed copy of sections twenty-nine to thirty-four, inclusive, of this chapter, shall be conspicuously posted in all the wards and public rooms and wherever persons are restrained of their liberty as insane, unless otherwise ordered in writing in special cases by said commission.

*Ibid § 33.
Printed copies
of §§ 29 to 34
to be posted,
where.*

34. Every superintendent, keeper, officer, assistant, or other person as aforesaid, violating any of the provisions of the preceding five sections, or neglecting to perform any of the duties hereby imposed upon him, shall be fined not exceeding twenty dollars.

*Ibid § 34.
Penalty on
certain
officers, etc.*

35. Whenever the agent of state charities and corrections shall make complaint in writing to the supreme court, that he is informed and believes that any person reputed to be idiotic, lunatic or insane, to be named or otherwise described in such complaint, is not humanely or properly cared for, or is improperly confined and restrained of his liberty in any town, such court shall forthwith examine into the circumstances alleged in such complaint, and if the same be found to be true, such court shall order and cause such idiotic, lunatic, or insane person to be removed to the state asylum for the insane, and shall thereupon issue a warrant or order, to be directed to the sheriffs or their deputies of the several counties for the removal of such person accordingly.

*Ibid § 35.
Of removal to
state asylum
of insane and
idiotic per-
sons im-
properly con-
fined, etc.*

36. The estate of such idiotic, lunatic or insane person, if he have sufficient estate therefor, and if he have not, then the person liable for the maintenance of such

*Ibid § 40.
Same subject.*

person, if any there be, shall be liable for the costs of such examination and removal of such person to the state asylum for the insane and for the expense of his maintenance therein; but if such person have no such estate, and there be no person liable for his maintenance, such costs shall be paid and such expense of maintenance of such person shall be borne by the town in which he has a settlement.

37. The words "insane person" shall be construed to include every idiot, person of unsound mind, lunatic and distracted person.

Ch. 24, § 6.
"Insane person."

38. Every lunatic having no legal settlement in this state who is supported as a pauper by the state, or by any town in the state, and who, in the opinion of the board of state charities and corrections is insane, shall be sent by said board to the state almshouse, or to the state asylum for the insane, there to be maintained at the expense of the state.*

Act of 1883,
ch. 348, § 1.
Insane paupers with no settlement committed to asylum.

39. The said board may receive into said asylum, from any town, any person having a legal settlement in such town, who, in the opinion of said board, is insane, upon such terms as may be agreed on by such town and said board.

Ibid § 2.
Insane paupers with legal settlement.

40. The governor may draw upon the general treasurer annually, for a sum not exceeding two thousand dollars, to be by him appropriated to the maintenance in whole or in part of such indigent insane persons being inhabitants of this state, as he may select as state beneficiaries, not more than one hundred dollars to be by him appropriated annually for the support of any one person.

Ibid § 3.
Indigent insane as state beneficiaries.

41. The agent of state charities and corrections shall visit all town asylums, and all places in the state where any insane person is kept, as often as may be necessary, to see that no insane person is improperly confined, or not properly cared for, and he may discharge at any time from any institution any insane person who has been committed thereto upon his order.

Ibid § 4.
Duties of state agent relative to the insane.

42. No insane pauper shall hereafter be detained in any town asylum, poorhouse, lock-up or bridewell, for

Ibid § 5.

* This act repeals and supplies ch. 75 of R. S. of 1882.

a longer period than five days, unless in the opinion of the agent of state charities and corrections, he is properly cared for, and the town council of every town shall cause all insane paupers so detained in a town asylum, poorhouse, lock-up or bridewell, to be removed within five days from the date of their commitment, to the state asylum for the insane.

Detention of
insane pau-
pers in town
asylum regu-
lated.

43. In case any town council shall neglect or refuse to cause such insane paupers to be removed within said five days, the agent of state charities and corrections shall cause them to be removed to the state asylum, and the expense of such removal may be recovered from the town so neglecting or refusing, by said agent, in an action of the case in the name of the general treasurer for the use of the state.

Ibid § 6.
Penalty for
not removing
insane pau-
pers.

44. The board of state charities and corrections are hereby authorized to receive for treatment and care any person who shall be an inhabitant of this state, who in their opinion is insane, upon such terms for treatment and care as may be agreed between said board and some responsible person, upon the written certificate of two practicing physicians, that in their opinion such person is insane; *provided*, that the sum charged for board, care and treatment of said insane person, shall in no case be fixed at a less sum than the entire cost to the state of the board, care and treatment of such insane person.

Ibid § 7.
Insane pa-
tients for pay
may be re-
ceived.

45. Whenever, on the trial of any person upon an indictment, the accused shall set up in defense thereto his insanity, the jury, if they acquit such person upon such ground, shall state that they have so acquitted him; and if the going at large of the person so acquitted shall be deemed by the court dangerous to the public peace, the court shall certify its opinion to that effect to the governor, who, upon the receipt of such certificate, may make provisions for the maintenance and support of the person so acquitted, and cause such person to be removed to the state asylum for the insane or other institution for the insane, either within or without this state, during the continuance of such insanity, and shall draw his orders on the general treasurer, from time to time, to defray the expenses thereof.

Ch. 74, § 22.
Disposition of
persons ac-
quitted on in-
dictments be-
cause insane.

46. The estate of any insane person removed to any institution for the insane, pursuant to the preceding section, shall be liable for the expenses of his support and maintenance therein; and the general treasurer, in behalf of the state, may, from time to time, commence and prosecute to final judgment and execution, any proper action, suit or proceeding at law or in equity, against the estate of any such person, for the collection of the same.

*Ibid § 23.
Expenses of
support, how
collected.*

47. On petition of the board of state charities and corrections, setting forth that any person convicted of crime and imprisoned for the same in the state prison or in the Providence county jail, or of the clerks of the supreme court or court of common pleas in the other counties of the state, that any person so convicted and imprisoned in the jails of their respective counties, is insane, idiotic or in such a state of impairment of body or mind or both, as tends directly to insanity, idiocy or dementia or to a permanent incapacity for mental or physical labor, any justice of the supreme court may order such examination of said person as in his discretion he shall deem proper.

*Ibid § 24.
Of examination
of convicts
alleged to be
insane, idiotic,
etc.*

48. If upon such examination said justice is satisfied that the person thus imprisoned is insane, or in any of the states of mind or body set forth in the preceding section, he may order the removal of such prisoner from the state prison or any of the jails aforesaid to be detained in the state asylum for the insane, the state almshouse, or in said Butler hospital, as in his judgment he shall deem best.

*Ibid § 25.
Of removal of
such to state
asylum for
the insane.*

49. Such order of removal shall be for and during the term of said prisoner's sentence, and be directed to the sheriff of the county in which such prisoner stands committed.

*Ibid § 26.
Removal,
time of.*

50. Upon restoration to reason, or to health, both of body and mind, any person removed as aforesaid may, by order of either of the justices of the supreme court in his discretion, be remanded to the place of his original confinement, to serve out the remainder of his term of sentence.

*Ibid § 27.
Persons re-
stored to rea-
son may be
remanded.*

51. All the necessary expenses of the examination aforesaid shall be paid by the general treasurer, upon the recommendation of the justice who shall make such examination.

*Ibid § 28.
Expenses,
how paid.*

52. On the petition of the agent of state charities and corrections, or of the clerk of the supreme court or court of common pleas in any county of the state other than the county of Providence, setting forth that any person awaiting trial and imprisoned is insane, any justice of the supreme court may make such an examination of said person as in his discretion he shall deem proper.

*Ibid § 35.
Of examination of persons imprisoned and deemed insane.*

53. If, upon such examination, said justice is satisfied that the person thus imprisoned is insane or idiotic, he may order the removal of such prisoner from the jail aforesaid to the state asylum for the insane, if he can be there received, if not, to the Butler hospital for the insane.

*Ibid § 36.
Same subject.*

54. Any person removed as aforesaid, upon restoration to reason, may, by order of any of the justices of the supreme court, in his discretion, be remanded to the place of his original confinement to await his trial for the offense for which he stands committed.

*Ibid § 37.
Persons restored to reason may be remanded.*

55. All the necessary expenses of the examination aforesaid shall be paid by the general treasurer upon the recommendation of the justice who shall make such examination.

*Ibid § 38.
Expenses of examination.*

SOUTH CAROLINA.

GOVERNMENT OF ASYLUM.

1. Regents, appointment, term of office.
2. Title, powers and duties of regents.
3. Annual report of regents.
4. Property vested in regents.
5. Regents authorized to close certain streets in city of Columbia.
6. Exemption of officers from militia, road and jury service.

ADMISSION AND DISCHARGE.

7. Who may be admitted.
8. Non-residents admitted, charges for.
9. Inquisition by judge.
10. Dangerous insane, commitment.
11. Order for detention necessary.
12. Transient insane, support of.
13. Security for support.
14. Discharge on recovery.
15. Imbeciles to be returned to county.
16. Cruelty to patients, penalties for.
17. Notice of commitment to com-

missioners, investigation of indigence.

18. False statement of indigence by commissioner, penalty for.
19. Private patients exempt from provisions of act.
20. Indigent insane, commitment by commissioners.
21. Insane not to be confined in jail.
22. Jailer to report names of insane.
23. Order of commitment to be accompanied by report of county commissioners.
24. Reports, to whom certified; proceedings upon.
25. Dangerous insane consigned to the care of the sheriff.
26. Names of inmates reported to county commissioners, proceedings.

CRIMINAL INSANE.

27. Commitment to asylum, liability for support when not a pauper.

1. The governor shall appoint nine regents of the lunatic asylum, who shall hold their offices for six years from the day of appointment, except upon the occurrence of a vacancy in the regency, when the governor shall fill the same by an appointment for the unexpired term only.

General Stat-
utes of 1882,
§ 1584.
Governor to
appoint nine
regents; term
of office; ap-
pointment, for
unexpired
term.

2. The said regents, by the name of "The Regents of the Lunatic Asylum of South Carolina," shall form a body corporate in deed and in law, for all the purposes of the said institution, with all the powers incident to corporations; and they shall be, and they are hereby, authorized and empowered to make and establish all rules, regulations, and by-laws for the government of the institution, which, when made, shall be reported to the next legislature for approval or rejection, but, until rejected by the legislature, shall be in force; and to fix the amount of the salary or emoluments of the keeper, officers, or medical attendants; to establish

§ 1585.
Regents in-
corporated;
their powers,
etc.

the rates of admission, maintenance, and medical attendance of all the subjects of the said institution, providing such rates as shall support the institution without any charge on the treasury of the state.

To establish rules of admission.

3. The regents shall report annually to the legislature the state and condition of the institution, fully and particularly; and they shall also annually report to the comptroller-general the amount of income of said institution, and the amount of expenditures, and the items thereof.

§ 1597.
Regents to report to the legislature.

4. The lot upon which the lunatic asylum stands, containing four acres, butting and bounding on Upper Boundary, Bull, Pickens, and Sumpter streets, is vested in the board of regents of said asylum, and their successors in office, for the uses and purposes of the asylum.

§ 1598.
Lot vested in regents of asylum.

5. The board of regents of the lunatic asylum are authorized to close up and use, for the purpose of said asylum, so much of Pickens street, in the city of Columbia, as lies between Lumber and Upper streets of said city, to retain such portion of Upper street as they have already enclosed, and also to close that part of Upper street, in the plan of the said city, lying between Henderson and Barnwell streets, and adjacent to the asylum grounds.

§ 1599.
May close up certain streets.

6. All guards, keepers, employes, and other officers employed at the lunatic asylum, shall be exempted from serving on juries, and from all military, road, or street duty.

§ 1600.
Employes and officers, etc., exempted from military and other duties.

7. It shall be the duty of the regency to admit as subjects of the institution all idiots, lunatics and epileptics, being citizens of this state, according to the following regulations, and subject to the following conditions, that is to say:

§ 1598.
Who to be admitted to asylum.

(1) All persons who shall be found idiots, or lunatics, by inquisition from the probate or circuit courts, or on trials in the circuit where the court shall order such admission.

1. Those found idiots, etc., by inquisition, etc.

(2) Where it shall be requested under the hands of the husband or wife, or (where there is no husband or wife,) of the next of kin of idiot or lunatic.

2. Where requested by husband or wife, etc.

(3) All persons who shall be declared lunatics, idiots, or epi-

3. Those so
declared after
examination.

leptics, after due examination by one trial justice and two licensed practicing physicians of the state.

Where the subject is a pauper, the admission shall be at the request of the county commissioners of the county wherein such pauper has a legal settlement; otherwise, the admission shall be at the request of the husband or wife, or, where there is no husband or wife, of the next of kin of the idiot, lunatic, or epileptic.

8. All idiots and lunatics from any of our sister states shall be admitted on such evidence of their lunacy or idiocy as the regents regard sufficient; but no foreign lunatic or idiot shall be admitted or kept in the institution to the exclusion of subjects being citizens of this state, and they shall pay the same rates as citizen subjects.

§ 1587.
Idiots from
other states
to be admitted
at usual rates.

9. Whenever a judge of probate, or judge of the circuit court, shall direct an order to any trial justice to inquire as to the idiocy, lunacy, or epilepsy of any person, or when information, on oath, shall be given to any trial justice, that a person is an idiot, lunatic, or epileptic, and is chargeable for his support on the county, it shall be the duty of such trial justice forthwith to call to his assistance two licensed practicing physicians, and examine such person, and the evidence of his or her idiocy, lunacy or epilepsy; and if, after full examination, they shall find such person an idiot, lunatic, or epileptic, they shall certify to the said judge or to the board of county commissioners, whether, in their opinion, such person is curable or incurable, and whether his enlargement would be harmless or dangerous or annoying to the community; and thereupon the judge or the board of county commissioners, in his or its discretion, may make an order that the said person shall be sent to the lunatic asylum.

§ 1588.
Judges may
direct inquisi-
tions.

Order to be
made on re-
turn thereof.

10. The judge of the probate court may commit to the lunatic asylum any idiot, lunatic, or person non compos mentis, who, in his opinion, is so furiously mad as to render it manifestly dangerous to the peace and safety of the community that he or she should be at large; and also, in all such other cases provided by law. In all cases the judge shall certify in what place the said person or persons resided at the time of the commitment,

§ 1590.
Judge of pro-
bate may com-
mit lunatics,
etc., to asy-
lum.

and such certificate shall be conclusive evidence of such residence.

11. No lunatic, idiot or epileptic, who may be declared a fit subject for the institution by a trial justice and two physicians, or who shall be sent from a sister state, shall be retained in the institution more than ten days after his admission, except where there shall be entered in the record of the institution an order for his retention, made, after full examination of his state of mind, by the medical attendant or attendants, and not less than three of the regents; and upon such order being made, it shall be the duty of the secretary of the regency to make out a certified copy of the declaration of the trial justice and physicians, and of the order of retention, and immediately send the same to the judge of probate of the county wherein such lunatic, idiot, or epileptic shall reside, who shall thereupon make such order in relation to the custody of the estate of the said subject as would have been made had the proceedings been under a writ de lunatico inquirendo.

§ 1591.
Certain inmates not to be retained without examination, etc.

12. Transient paupers, lunatics, idiots, or epileptics, sent to the asylum by virtue of the existing laws, shall be supported at the expense of the state, and the regents are hereby authorized to draw from the treasury for every such lunatic one hundred and thirty-five dollars per annum. And it shall be the duty of the regents to report, specially, to every legislature, the whole number of this class of lunatics, idiots, or epileptics, while they remain a charge upon the public treasury.

§ 1592.
Transient pauper lunatics to be received; appropriation for support.

13. No subject shall be admitted into the institution until one-half year's expense of maintenance and medical attendance there shall be paid to the treasurer of the regency; and a bond and good security shall be given to pay the said expenses half-yearly, in advance, so long as the subject remains in the institution, and to pay all funeral charges in case of his death; but such bond shall not be required of the county commissioners sending a pauper subject to the institution; *provided*, that the regents shall not be required to exact half-yearly advances for the admission into the asylum of such subjects as may be deemed curable, and likely to be speedily discharged, but only such

§ 1593.
Terms of admission; advances not to be exacted in certain cases.

advances as they may deem the nature of the case to require. In case the half-yearly advances are not paid, the bond shall be immediately put in suit.

14. Whenever any lunatic or epileptic shall have recovered,
§ 1594. Discharge of lunatics, etc. it shall be the duty of the regents to discharge him or her from the asylum.

15. The county commissioners of the various counties in
§ 1595. Imbeciles to be removed by county commissioners to county poorhouses. the state shall remove their imbeciles from the state lunatic asylum, upon due notice from the superintendent to the said county commissioners as to the number of imbeciles confined in the institution from their respective counties, and shall take care of all such persons in their respective county poorhouses.

16. It shall be the duty of the regents to remove from office
§ 1596. Persons employed may be removed. and cause to be indicted, any person employed in said institution who shall assault any idiot, lunatic or epileptic, or use towards any such idiot, lunatic, or epileptic any other or greater violence than may be necessary for his or her restraint, government, or cure.

17. All officers now authorized by law to send insane persons to the lunatic asylum, shall, before sending
§ 1601. Before sending lunatic to asylum, notice to be given county commissioners to decide about ability to pay, etc. such insane person to the asylum, notify the chairman of the board of county commissioners, or the clerk of such board, that such person shall be sent to the lunatic asylum, having first had such lunatic, if of dangerous or violent character, so secured as not to do any damage or injury; and the county commissioners shall, as early as practicable, ascertain whether or not such insane person should be sent to the asylum as a beneficiary, or as one to be only in part supported by the state, or as a pay patient; and they shall also investigate the pecuniary condition of all beneficiary lunatics from their respective counties now in the asylum; and they shall have the right to call upon the solicitors of their circuit for all assistance in law to the carrying out of their duties herein; *provided*, that no portion of the corpus of any estate belonging to such patient shall be taken for the current support of such patient.

18. If the county commissioners shall send to the lunatic
§ 1602. Penalty for improper discharge of duties. asylum any person who can be now made to pay out of his or her income for his or her support, and shall knowingly or wilfully make a false report upon

the condition of any person sent by such officer now authorized by law to send insane persons to the asylum, such commissioners shall, upon due conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding two hundred dollars, and the bond of such county commissioner shall be liable for such fine.

19. Nothing herein contained shall be held in any manner to apply to the entrance of pay patients into the asylum as now provided by law.

§ 1803.
Not applica-
ble to pay
patients.

20. The county commissioners shall be authorized to send all pauper lunatics, idiots, and epileptics, in their several counties, to the lunatic asylum.

§ 899.
Commitment
to asylum.

21. No pauper, lunatic, idiot, or epileptic, shall hereafter be confined for safe keeping in any jail; and if any such person shall be imprisoned, under and by virtue of any legal process, it shall be the duty of the sheriff, in whose custody he may be, to obtain his discharge as speedily as possible, and send him forthwith to the asylum, according to law, at the expense of the county within whose limits he shall have gained a settlement.

§ 2897.
Paupers, lu-
natics, etc.,
not to be im-
prisoned, but
sent to the
asylum.

22. It shall be the duty of the jailers of the several counties of this state, at the sitting of each court of sessions, to report to the presiding judge the names of the persons confined in jail, who are lunatics, idiots, or epileptics, with the cause of their detention.

§ 2898.
Jailer to re-
port lunatics.

23. The superintendents and regents of the state lunatic asylum shall not receive into said institution any beneficiary patient unless the order consigning such person to the asylum is accompanied by a report from the county commissioners of the county from which such person is sent, certifying that they have carefully investigated the circumstances and condition of such person, his or her family, parent or guardian, and that such person is a proper subject for beneficiary care and to what extent.

Act of 1882,
No. 121, § 1.
Powers of
superintend-
ents and
regents.

24. Said report shall also be certified by the county auditor and treasurer of such county, showing the property and condition of such patient. And the superintendent and board of regents shall have the right to reject any and all applicants for beneficiary care, if in their judgment

Ibid § 2.
Report shall
be certified to.

the financial condition of such person, his or her family, parent and guardian, does not warrant the same.

25. The sheriffs of the respective counties shall, on the order of the court, take temporary control of all such violent or dangerous lunatics as may be consigned to their care during the period necessary for the foregoing investigation and reports, and they shall be entitled to such fees therefor as are fixed by law for dieting prisoners.

Ibid § 3.
Sheriff to take control of violent patients, fees.

26. The superintendent of the asylum shall, within sixty days from the adjournment of this session of the legislature, send to the board of county commissioners of each county the names of the inmates from the respective counties, and thereupon the boards of county commissioners, auditors and treasurers of the respective counties shall, within sixty days, make the investigation, reports and certificates as to each of said inmates as is directed in sections 1 and 2 of this act. And upon the filing of said report and certificate in the office of the superintendent, the superintendent and regents shall have the right, and they are hereby required, to deal with such inmates in the same way as is prescribed in section 2 as to applicants for beneficiary care.

Ibid § 4.
Superintendent shall send names of inmates to county commissioners.

Powers and duties.

27. Any judge of the circuit court is authorized to send to the lunatic asylum every person charged with the commission of any criminal offense, who shall, upon the trial before him, prove to be non compos mentis; and the said judge is authorized to make all necessary orders to carry into effect this power. Where the person so sent is not a pauper, he shall be supported out of his own estate, according to regulations to be prescribed by the court, as on a return to a writ de lunatico inquirendo.

§ 1589.
In criminal cases judge may send persons non compos mentis to asylum.

How supported.

TENNESSEE.

GOVERNMENT OF ASYLUMS.

1. Tennessee hospital continued.
2. Corporate powers.
3. Enumeration of officers.
4. Board of trustees, appointment, term of office, duties.
5. Ex-officio visitors.
6. Superintendent, qualifications.
7. Qualifications and residence.
8. Term of office.
9. Control of officers.
10. Oath of office.
11. Bond of superintendent.
12. Duties of superintendent.
13. Trustees, powers and duties.
14. Trustees and superintendent, powers and duties.
15. Monthly meetings, inspection of asylum.
16. Biennial meetings.
17. Compensation of trustees.
18. Appropriations by trustees.
19. Treasurer, state treasurer to act as.
20. Quarterly report of.
21. Disbursements on order of chairman of board.
22. Treasurer, compensation.
23. Superintendent, salary.
24. Sale of liquor near asylum prohibited.
25. Intoxication on asylum grounds, penalty for.
26. Suit for bonds of non-residents.
27. Reports of non-residents in arrears.
28. Non-residents in arrears returned.

ASYLUM FOR COLORED INSANE.

29. Appropriation for erection.
30. Appropriation, how drawn.
31. Erection under superintendence of trustees of state asylum.
32. Directors for erection of asylum, to receive no compensation, not to be interested in contracts.
33. Superintendent, plans for asylum.
34. Laws governing state asylum to apply to east Tennessee asylum.

ADMISSION AND DISCHARGE.

35. Non-residents not received in asylum.
36. Admission, proceedings on.
37. Apportionment of non-paying pa-

tients, expenses how borne, discharge in discretion of trustees.

38. Admission of non-paying patients, proceedings.
39. Admission of paying patient, proceedings.
40. Discharge by superintendent.
41. Provisions to apply to admission of negroes.
42. Jurisdiction of courts over insane.
43. Information and inquest of insanity.
44. Form of writ.
45. When returnable.
46. Witnesses, subpoenas.
47. Costs of proceedings.
48. Guardian to be appointed, duties of.
49. Custodian for indigent insane.
50. Bond of custodian.
51. Temporary commitment during vacation of court.
52. Definition of terms.
53. Support, appropriation by county court.
54. Unexpended money refunded by treasurer.
55. On forfeiture of bond patients returned to relatives.
56. Dietary of patients, fixed by trustees.
57. Private patients, charges for.
58. Charges payable in advance.
59. Private patients charged in proportion to care.
60. Indigent patients charged with actual cost.
61. Insane to be supported by the state.
62. Indigent insane, expenses of removal borne by county.

CRIMINAL INSANE.

63. Fact of insanity stated in verdict.
64. Commitment by county.
65. On recovery, remanded to custody.
66. Notice by district attorney; trial or discharge.
67. Sheriff's fees, how paid.
68. Indigent criminal insane, supported by state.
69. Insane convicts, transfer to asylum.
70. Similar provisions.
71. On plea of insanity, finding of jury.
72. Release on recognizance.

1. There shall continue to be in this state an asylum for the insane, which shall be a body politic and corporate by the name of the "Tennessee Hospital for the Insane."

Compiled Stat-
utes of 1871,
§ 1317.
Insane asylum
incorporated.

2. Said corporation shall have a common seal; and, in its corporate name and capacity, it may acquire property, real and personal, by gift or otherwise, and hold, sell, and convey the same for the uses and purposes of its creation, and sue and be sued, in the same manner as a natural person.

§ 1518.
Powers.

3. The officers of said corporation shall be a board of trustees, a board of visitors, a superintendent, a treasurer, and such other assistants as may be found necessary to transact the business of the institution.

§ 1519.
Officers.

4. The governor of the state shall nominate and appoint, by and with the advice and consent of the senate, as now provided by law, nine trustees of the hospital for the insane, whose term of office shall begin immediately from and after the date of their appointment. Three of said trustees shall be nominated to serve until the first Monday in February, 1879; three until the first Monday in February, 1881, and three until the first Monday in February, 1883. On the first Monday in February, 1879, and every two years thereafter, three trustees shall be appointed to serve for six years from the date of their appointment. The duties of said trustees shall be the same as now prescribed by law, and they shall, at the expiration of the present term of office of the superintendent of the asylum, elect his successor.

§ 1522,
as amended
1877, ch. 45, § 1.
Establishment
of hospital for
the insane.

5. The governor, judges of the courts, and members of the general assembly, shall be, ex-officio, visitors of the hospital.

§ 1523.
Visitors.

6. The superintendent of the hospital shall be appointed by the board of trustees, and shall be a skilful physician, of unblemished moral character, of enlightened and thorough professional education, of prompt business habits, and of humane and kind disposition.

§ 1524.
Superintend-
ent, appoint-
ment and
qualifications.

7. He shall be a married man, and, with his family, shall reside constantly in the institution.

§ 1525.

8. He shall hold his office for eight years, but may be re-

moved by the trustees for infidelity to his trust, or § 1526.
Term of office. incompetency, fully shown and declared.

9. He shall exercise entire control over all subordinate officers and assistants in the hospital, and shall have § 1527.
Power over officers. entire direction of the duties of the same, he himself being accountable to the board of trustees for their good character and fidelity in the discharge of their duties.

10. The physician and superintendent of the hospital, before entering upon the discharge of the duties of his § 1528.
Oath. office, shall take an oath faithfully to discharge said duties, and that he will not enter into any combination to oppress or deprive any person of his or her liberty or civil rights.

11. He shall also give bond with good surety, approved by the governor, in the penalty of ten thousand dollars, § 1530.
Bond. payable to the state, conditioned faithfully to account for and pay into the treasury all moneys which may come to his hands, and faithfully to discharge his duties as superintendent; which bond shall be deposited by the governor, in the office of the secretary of state, for safe custody.

12. It shall be the duty of the superintendent, under the orders of the board of trustees— § 1531.
Duties.

(1) To exercise a general superintendence over all matters relating to the hospital.

(2) To visit the patients therein, at least twice a week, or oftener if necessary.

(3) To call extraordinary meetings of the board whenever he may deem it necessary.

(4) To report to the trustees, immediately before each session of the general assembly—

1st. The number of the patients admitted into the hospital.

2d. The date of the admission of each patient.

3d. The degree and kind of insanity with which each patient is afflicted.

4th. The length of time each patient was supposed to have been afflicted before admission.

5th. The previous occupation, age, and habits of each patient, and whether married or single.

6th. The names and number of those discharged, and the situation of each when discharged.

7th. And such other particulars as he may deem necessary to the further action of the legislature thereon.

13. The board of trustees shall have power, and it shall be
§ 1532.
Trustees. their duty—

- (1) To appoint a superintendent of the hospital.
- (2) To remove him for infidelity to his trust, or incompetency, fully shown and declared.
- (3) To make such orders and regulations as may be necessary for the government of the patients in the hospital, its internal police, the supply of provisions, fuel, water, clothing, books, and whatever else may be deemed necessary for the health, comfort, cleanliness, and security of the inmates.
- (4) To know that the supplies aforesaid are furnished.
- (5) To regulate the rates of fare per week of such insane persons as may be placed in the hospital by individuals.
- (6) To establish a bill of fare for such patients as may be in the hospital at the expense of the state.
- (7) To discharge, at any time, any of the patients in the hospital, unless committed to custody in the same by some court.

14. The trustees, associated with the physician shall have the following powers:

§ 1533.
Trustees and
physician;
powers of.

- (1) To determine the salaries and compensation of the officers and assistants whose services may be necessary for the comfortable, just, and economical management of the hospital.
- (2) To make such by-laws and regulations for the government of the hospital as shall be necessary.
- (3) To cause the same to be published with the biennial report of the physician and that of the trustees and the treasurer.
- (4) To distribute the same throughout the state for the information of the people.
- (5) To send said reports of the physician and trustees to such similar institutions in the United States, and elsewhere, as they may think proper.
- (6) To hold a regular meeting at the hospital once in every month.
- (7) To keep a regular record of all their proceedings.
- (8) To report through their chairman to each general assem-

bly such regulations as they may have adopted for the government of the institution.

(9) To report also to the general assembly, at every session, a detailed statement of their receipts and expenditures.

(10) To report annually to the governor, and biennially to the general assembly, the true history and condition of the hospital.

(11) To make such alteration in the hospital itself, and in the grounds attached to it, as may be necessary to insure such a separation of the different classes of the insane as is essential to their proper treatment, medical as well as moral.

(12) To place such of the insane as may be benefited by it, in the opinion of the physician, at such employments as will tend to their restoration, or to make them serviceable in defraying the expenses incident to the management of the institution, or in making proper improvements either in the grounds or buildings.

(13) To make all necessary provision to insure to patients such means of bodily exercise, and of amusement and recreation, as constitute a proper part of the treatment of such patients; and in every instance, where the pecuniary resources of the patient will justify it, to make the benefit of such means of exercise, amusement and recreation the subject of an extra charge, in rendering the account of the lunatic who is permitted to enjoy them.

15. The three trustees resident in Davidson county shall be competent to transact all ordinary business arising ^{§ 1534.} at the monthly meetings of this branch of the ^{Monthly meeting of trustees.} board. Each in rotation for one month shall visit the hospital once a week; and together they shall vigilantly examine into the condition of the same, once in every month, and oftener, if notified by the superintendent, or any member of the board.

16. The trustees composing the full board shall be notified to convene at the hospital and strictly investigate ^{§ 1535.} the administration of the same the first of October, ^{Biennial meeting of all the trustees.} upon each biennial session of the general assembly.

17. The trustees shall each receive two dollars a day for every day of actual service in the performance of ^{§ 1536.} their official duties; and the trustees residing out ^{Compensat'n.}

of Davidson county, when summoned by the president of the board, shall also receive eight cents per mile for each mile traveled in the trip, and two dollar per day for each day occupied in obeying the summons.

18. A majority of the whole board shall in all cases be required to vote an appropriation of money. But § 1537. Appropriat'ns, majority only can make. they shall make no appropriation of money but such as has been previously appropriated by law to the institution, or such as the trustees have received from private individuals for keeping insane persons in the hospital.

19. The treasurer of the state shall be treasurer of the hospital. He shall perform all the duties of said § 1538. Treasurer. office, and be liable for his conduct in the same, as he now is, or shall be, by law, made liable in all other of his official acts.

20. He shall present to the trustees a quarterly report of the receipts of all moneys paid into the treasury for the benefit of the hospital, or in behalf of the patients, and of all sums of money paid out for the necessary uses and expenses of the same. § 1539. To report quarterly.

21. He shall pay out of the hospital funds no sum of money for any hospital use whatever, except by order of the chairman of the acting board of trustees for the same. § 1540. To pay on order of the chairman.

22. The treasurer's compensation for receiving and disbursing the money which may come into his hands for the use of the hospital, shall be three-fourths of one per cent. on said receipts and disbursements, to be paid out of the same. § 1541. Compensat'n.

23. The superintendent and physician shall receive a salary of two thousand dollars per annum, payable quarterly out of the state treasury upon the warrant of the comptroller. § 1564 m. as amended 1879, ch. 69. Salary of sup't and physician.

24. No person shall be permitted to keep for sale or sell any spirituous liquors within two miles of said hospital buildings, and any person so offending, upon conviction by indictment or presentment, shall be fined not over fifty dollars, and imprisonment in the discretion of the court before which conviction shall occur, and all licenses to keep or sell spirituous liquors within two miles of said hospital shall be void. § 1564 a. Spirituous liquors not to be sold within two miles of hospital.

25. It shall be an indictable offense for any person to enter the premises upon which said hospital is located, drunk, or in a state of intoxication, and any person convicted of so offending shall be fined not less than twenty-five dollars, and imprisoned or not, in the discretion of the court trying the cause.

§ 1564 b.
Intoxication
on hospital
premises,
indictable.

26. The superintendent is authorized and empowered to bring suit in any court of the state of Tennessee, and to employ counsel for the prosecution of the same in the name of the state for the use of said hospital, upon any bond so taken, or upon any bonds or obligations heretofore taken [in case of patients from other states,] and to collect any moneys due said institution in any wise or manner.

§ 1564 c.
Patients from
other states.

27. It shall be the duty of the superintendent to report to the governor annually, the names of all persons from other states who are in arrears of board, or other charges, and the governor may, in his discretion, take such steps against the property of such lunatics or the sureties, as he may deem proper.

§ 1564 d.
Delinquent
patients from
other states;
duty of gov-
ernor.

28. The board of trustees of said institution is empowered to return any patient who is from any other state, who is three months in arrears of payment of all charges.

§ 1564 e.
To be sent
home.

29. The sum of twenty-five thousand dollars, or so much thereof as is necessary, is hereby appropriated to the erection of an asylum for the colored insane residing in the state of Tennessee, at the time such insanity commenced, at the charge of, and upon the charity of the state. Said building to be erected upon the lands now belonging to the state, and upon which the Tennessee hospital is erected. And this appropriation is in lieu of all others heretofore made for the erection of an asylum for colored insane.

§ 1564 f.
Asylum for
colored
insane.

30. So much of said sum of twenty-five thousand dollars as shall be necessary for the purpose of the erection of said building and improvements, shall be paid out of the treasury of the state upon the order of the superintendent, countersigned and approved by the chairman of the board of trustees; and said order shall specify upon its

§ 1564 g.
Appropriation
for same, how
drawn.

face the name of the person or persons to whom the same is due and payable, and for what consideration the same is given, and the superintendent shall preserve duplicate copies of said order and bills, and report the same to the next general assembly, together with the amount expended.

31. The buildings and other improvements contemplated by this act, shall be built under the superintendence and control of the board of trustees and superintendent; but in no event shall they exceed by contract or otherwise, the amount of the said sum of twenty-five thousand dollars.

32. The governor shall appoint three directors, whose duty it shall be to take charge of the farm mentioned in the above preamble, and to erect a hospital on the same; said directors shall not receive any compensation for the services herein imposed upon them except the actual traveling expenses incurred in the discharge of their duties, nor shall the said directors be concerned in any way in any contract for the erection of said building or for furnishing supplies of any kind for the same.*

33. The said directors shall have power to select and appoint a gentleman of thorough medical education, familiar with the care and treatment of the insane, who, together with themselves, shall prepare a plan for the proposed hospital, and superintend its erection; the said plan shall be drawn out in detail by a competent architect employed by said directors and superintending physician, which plan shall be in strict conformity with propositions of constructions of institutions for the insane, and shall be approved by the governor, or such experts as he may select for deciding upon the propriety of the same, and no change shall be made in said plan to materially affect its character or cost without the consent of the governor, or said expert, in writing.

34. The laws now in force in this state relative to the

* The state of Tennessee is the owner of a tract of land situated in the county of Knox, purchased by commissioners appointed by the governor with a view to erect a hospital for the insane, in compliance with the act of March 20, 1873, and the commissioners had contracted for the erection of the building and large sums of money had been expended when the work was suspended by an act of March 22, 1875.

management and regulation of insane asylums, are extended, and made to apply to the government and regulation of the asylum in east Tennessee, and the trustees now authorized by law to control and manage the insane asylums of this state, are constituted the trustees of said asylum in east Tennessee.

35. No person shall be received as a patient in the hospital except he or she have legal citizenship and residence in the state.

Ibid § 6.
Regulations.
Act of 1871, ch. 138, § 1.
Patients to be legal
citizens.

36. Insane persons may be placed in the hospital by their legal guardians, or by their relations or friends, in case they have no guardians, or by a justice of the peace, if the person be proved to be insane, but never under any circumstances except upon the statement of at least one reputable physician based upon personal examination and certificate thereto, made and dated within one month of the presentation of the patient at the hospital. Such certificate shall be signed and sworn to and attested by a justice of the peace or judge of any court of record.

Ibid § 2.
Admission.

37. Non-paying patients to the number of three hundred may be admitted to the hospital, one to every four thousand of the population of each county, under these conditions:

Ibid § 3.
Non-paying
patients; how
many may be
received.

The county from which such patient is sent shall pay the transportation to the hospital, [and] during the stay of such patient, (the hospital) shall furnish clothing and all proper hospital maintenance and treatment. When the superintendent of the hospital shall notify the county court clerk of the propriety or necessity of removing such patient, it shall be done at the expense of the county, the charge being limited to the actual expenses. Such patients shall be removed, whenever, in the judgment of the superintendent and president of the board of trustees, it may be judicious and proper for the interest of the hospital, of the patient, and of the community.

Removal to be
made at ex-
pense of
county.

38. For the admission of non-paying patients, the following proceedings shall be had:

(1) Some respectable citizen of the county to which the patient belongs, shall file with a justice of the peace of the county a statement in writing substantially as follows:

Ibid § 4.
Admission,
necessary pro-
ceedings for.

State of Tennessee, }
County. }

The undersigned, a citizen of said state and county, hereby
states that is insane; his insanity is of less than
Certificate of
citizen. two years' duration, (or that his being at large is
dangerous to the safety of the community) that he is in needy
circumstances and has a legal settlement in the said county,
and is a citizen of the state of Tennessee.

These facts can be proved by and (naming at least two
persons, one of whom shall be a respectable physician).

Dated this day of , 18 .

(2) The justice shall issue subpoenas on the persons named
Subpoenas,
justice may
issue, etc. as witnesses and such other persons as he may
think proper, requiring them to appear before him
at a specified time, to testify concerning the facts set forth in
said statement. Subpoenas may also issue for witnesses in be-
half of the person alleged to be insane.

(3) If after such inquest the justice is satisfied of the truth
of the allegations set forth in the statement, he shall require
the medical witnesses forthwith to make out a certificate, such
as is herein set forth, substantially: I, , a practicing physi-
Physicians'
certificate of. cian of the county of , state of Tennessee, hereby
certify that I have this day personally examined ,
alleged to be insane, and pronounced so; is years of age,
is the subject of no infectious disorder; the disease is of years'
duration; is not the subject of epilepsy; has attempted
to commit violence on self or others; the medical treatment
has been .

(4) The justice shall certify to his inquest, and attest the
signature of the physician under seal. The following words
substantially shall be his certificate:

State of Tennessee, county.

I, the undersigned, justice of the peace in and
Justice of the
peace, certifi-
cate of. for the county aforesaid, hereby certify that I have
held an inquest on , of said county, a per-
son alleged to be insane, according to law. I am satis-
fied that he is insane, on competent medical treatment;
that he is a fit subject to be sent to the state hospital for the
insane, to undergo treatment therein, as an object of bounty of
the state. I am further satisfied that his being at large is

injurious to himself and disadvantageous to the community.

Witness my hand, this day of , 18 .

(5) Immediately after the inquest, the justice shall transmit to the clerk of the county court a certificate of these proceedings. The clerk shall file the same in his office, and immediately transmit a copy of the same to the superintendent of the hospital, accompanied with an application for the admission of the patient therein named to the same. Upon receipt of this application the superintendent shall immediately advise the clerk whether and when the patient can be received.

To be filed with county court clerk and a copy to be transmitted to superintendent.

(6) The clerk shall thereupon in due season for the conveyance of the patient to the hospital by the time appointed, issue his warrant to any suitable person for the conveyance of the patient to the hospital, in the following terms substantially:

Warrant of clerk.

State of Tennessee, }
County. }

To

Whereas all the proceedings necessary to entitle to be admitted into the Tennessee hospital for the insane as a non-paying patient, have been had according to law, you are hereby required forthwith to take said person and convey him to said hospital, and after executing this warrant make due return of the same to this office.

Witness my hand and seal of office at office this day of , 18 . , Clerk.

(7) Upon receiving the patient, the superintendent shall endorse upon the warrant a receipt as follows:

Superintendent to give receipt.

Tennessee Hospital for the Insane.

Received the patient named in the written warrant.

_____, Superintendent.

39. Paying patients may be admitted into the hospital for the insane under the following conditions:

Ibid § 5.
Paying patients.

(1) Upon the presentation of the patient, there shall be produced to the superintendent the receipt of the treasurer of the hospital for the insane for thirteen weeks' charge in advance (or this amount shall be paid to the superintendent).

(2) A bond of the following form and tenor shall be made:

Know all men by these presents, that we , and , of the state of Tennessee, are held and firmly bound to the treasurer of the Tennessee hospital for the insane, in the penal sum of one thousand dollars, for the payment whereof we hereby jointly and severally bind ourselves.

Witness our hands this day of , 18 .

The condition of this obligation is as follows: Whereas , of this county of , is about to be admitted as a patient into the Tennessee hospital for the insane, now, if while remains therein the undersigned shall constantly supply with suitable clothing, and pay all the charges against , quarterly in advance, and pay all reasonable charges for injury to apartments and furniture, and in event of escape pay all reasonable charges for recapture, and if shall die therein, pay all reasonable expenses incurred for burial, and whenever removal shall be required, immediately do so, then this obligation shall be void, otherwise it shall remain in full force.

Witness our hands this day of , 18 .

(3.) A medical certificate of the following form, signed by at least one physician of reputable standing, shall be filed with the superintendent.

"The undersigned, being a physician in regular practice, hereby certifies that on the day of , 18 ,
Medical certificate. I personally examined , of county, state of Tennessee, and pronounce insane, and a fit subject of care and treatment in a hospital for the insane. The patient is years of age; is free from infectious disease; has been insane for ; the disease is (or is not) hereditary; the supposed predisposing and exciting causes are ; is not subject to epilepsy; has (or has not) attempted to commit violence on self or others."

This certificate shall contain all facts known to the maker regarding the insanity of the patient, and shall be
To contain all facts, etc. signed and attested by a justice of the peace.

40. The superintendent, by authority of the resident board of trustees, or a majority of them, shall have power
Ibid § 6. Power of superintendent to discharge. to require the removal of any patient, paying or non-paying, whenever in their opinion it is advisable to do [so].

41. The provisions of this act shall apply to patients offered for admission to the hospital for colored in- sane. Ibid § 8.
Provisions to apply to colored insane.

42. Jurisdiction over the persons and estates of idiots, lunatics and other persons of unsound mind, is in- trusted to the county and chancery courts. § 3681.
Jurisdiction, etc.

43. Upon information made to the county court, that any idiot or lunatic resides within the jurisdiction thereof, the court shall order the sheriff to summon a jury of twelve freeholders, to ascertain by inquisition the idiocy or lunacy, and the property and estate of the idiot or lunatic, and make return thereof to the court at that or the next succeeding term. § 3682
Inquisition of lunacy.

44. The following may be the form of the writ :

State of Tennessee, }
County. }

§ 3683.
Form of writ.

To the sheriff of county, greeting :

You are hereby commanded to inquire, by the oath of twelve freeholders, summoned by yourself, whether of in the county of is an idiot or lunatic, or is otherwise of unsound mind, so that he has not capacity sufficient for the government of himself and his property ; and if so from what time, after what manner, and how ; and if the said , being in the same condition, hath alienated any lands or tenements or not ; and if so, what lands and what tenements, to what person or persons, where, when, after what manner, and how ; and what lands and tenements, goods and chattels yet remain to him ; how much they are worth by the year, whether he has a wife and children, and their names and ages. And you are further commanded that at certain days and places, appointed by yourself, you diligently make inquisition in the premises ; and the same, distinctly and plainly made, return to the county court of said county at its next session, together with this writ.

Witness , clerk of said court, at office in , the day of , 18 .

45. The writ of inquisition may be returnable to the same term of the court from which it issues, if the court so direct ; and, in such case, the same proceedings § 3684.
Returnable to same term.

shall be had as if the return were made to the next succeeding term.

46. The clerk of the county court, or any justice of the peace, may, on application of either party, issue subpoena for witnesses to attend the inquisition, and such witnesses are subject to the penalties and entitled to the privileges of other witnesses.

47. The person on whose application the inquisition is sued, is liable for costs in case the defendant is not declared a lunatic; and if so declared, the costs shall be paid out of the lunatic's estate.

48. Upon the return of the jury that the person is an idiot or lunatic, and that he has property, the court shall appoint a guardian for the person and property of such idiot or lunatic, who shall give bond and account as other guardians.

49. If the idiot or lunatic has no property, or not sufficient for his maintenance, he may be let out for the term of one year to the lowest bidder, as other poor persons, or otherwise provided for as the court may direct.

50. If let out to the lowest bidder, bond and sufficient security, to be approved by the court, shall be taken for the safe keeping, providing with sufficient diet, washing, and apparel, and proper treatment for the term of letting.

51. Any justice of the peace, in the recess of court, if satisfied from the finding of a jury, or otherwise, that there is apparent danger of violence being offered by such idiot or lunatic to the person or property of others, may commit him to jail until the next term of the court.

52. * * * * * The terms "lunatic," "insane," "non compos mentis," include all persons of unsound mind.

53. The county court may appropriate moneys as follows:
* * * * *
(3) For the support of the poor, lunatics and idiots.

54. If there be a balance in the treasury of the hospital to the credit of a patient removed therefrom, the treasurer shall pay it to the person authorized to receive the same.

55. It shall be the duty of the superintendent of the hospital for the insane to give immediate notice to the nearest known relative or bondsman, as he may deem best, of all pay patients whose bonds have been forfeited, to come forward and make payment, and renew their bonds, and in case they fail to do so, within thirty days, then in such case of failure, it shall be the duty of the superintendent to convey or cause to be conveyed, such patient or patients as are named in this section to the nearest bondsman or nearest relative, as he may elect.

§ 1532 a.
Forfeited
bonds to be
renewed, or
patient to be
returned to
nearest rela-
tive, or
bondsman.

56. A bill of fare for such patients as may be in the hospital at the expense of the state, shall be established by the trustees.

§ 1539.
Diet.

57. The rates of fare per week for private patients shall be regulated by the trustees, and may be of any style of living desired, if approved by the physician.

§ 1560.
Rates for pri-
vate patients.

58. The fare prescribed by the trustees for private patients shall be paid in advance, quarterly.

§ 1561.
To be paid in advance.

59. Paying patients whose friends pay their expenses and who are not chargeable upon the county, shall pay for the care received, the terms being subject to decision by the trustees.

§ 1562.
Other care to
be paid for.

60. Persons in indigent circumstances, while resident in the hospital, shall, in their own right, or by the state bearing their expenses, be chargeable no more than the actual cost for clothing, nursing, board, and medical attendance.

§ 1563.
Charges,
rate of.

61. Under the regulations of title two, chapter one, article four [six] sections 1544, 1545, 1546, 1547, 1551,* of the code of Tennessee, persons alleged to be insane and so declared after the inquest, shall be admitted to the privileges of the hospital for the insane, free of charge; and all clauses in the above described sections of the code, and all other portions of the code and statutes now in force, in conflict with this section, are hereby repealed.

§ 1564 f.
Free patients.

62. All the necessary expenses attendant upon the transportation from and to the hospital of indigent insane patients, shall be paid by the counties from which they may be sent.

§ 1564 k.
Expenses of
transporta-
tion to be
paid by
counties.

* Supplied by act of 1871, see pl. 35-41, supra.

63. When the plea of present insanity is urged in behalf of any person charged with a criminal offense, punishable by imprisonment or death, the court shall charge the jury, that if from the evidence, they believe the defendant to be insane, and that it would endanger the peace of the community to set him at liberty, they shall so find.

§ 1554.
Person ac-
cused of crime
found insane.

64. Upon such finding, the court shall direct an order to the superintendent of the hospital for the insane, to receive and keep the defendant as other lunatics, which order, together with the defendant, the sheriff of the county shall deliver to said superintendent.

§ 1555.
Order for
commitment
to hospital.

65. When, in the opinion of the trustees and physician, such patient has recovered from his insanity, they shall cause him to be delivered to the jailer of Davidson county for safe keeping, and immediately transmit to the clerk of the county in which the patient was arraigned, notice of the fact.

§ 1556.
On recovery
delivered to
jailer.

66. If, at the next term of the court, the district attorney wish further to prosecute such person, the jailer of Davidson county, on notice thereof, shall deliver the prisoner to the jailer of the county in which he was arraigned; but if the district attorney shall not wish further to prosecute the prisoner, then he shall be discharged.

§ 1557.
Jailer to send
him, where.

67. The compensation of the sheriff for such services shall be the same as is allowed for the transportation of a convict to the penitentiary, to be paid out of the estate of the lunatic, if it is sufficient; otherwise, out of the treasuring of the state.

§ 1558.
Compensation
of sheriff.

68. The expenses of a person in indigent circumstances, committed by a court, as prescribed in sections 1554, 1555, shall be paid by the state.

§ 1564.
Expenses of
criminal.

69. Whenever the physician reports to the keeper that any convict is insane, and ought, on that account to be removed to the hospital, the keeper shall cause such insane convict to be removed accordingly, there to remain until removed by the physician.

§ 5488.
Removal of
insane con-
victs.

70. Whenever the physician reports to the keeper of the penitentiary that any convict is insane and ought on that account to be removed to the lunatic asylum, the

§ 5488 a.

keeper shall cause such insane convict to be removed accordingly, there to remain until discharged by the physician of said lunatic asylum.*

71 When the plea of insanity is urged on behalf of any person charged with a criminal offense, punishable by imprisonment or death, the court shall charge the jury that if, from the evidence, they believe the defendant to be insane, and that it would endanger the peace of the community to set him at liberty, they shall so find. Upon such finding, the court shall direct an order to the superintendent of the hospital for the insane, to receive and keep the defendant as others. Which order, together with the defendant, the sheriff of the county shall deliver to said superintendent. When in the opinion of the trustees and physician such patient has recovered from his insanity, they shall cause him to be delivered to the jailer of Davidson county for safe keeping, and, immediately transmit to the clerk of the county in which the patient was arraigned notice of the fact.

Act of 1871,
ch. 138, § 7.
Insanity,
plea of.
Court to
charge jury.

Sheriff to
deliver pa-
tient to sup't.

72. If the court in which a person is indicted for a criminal offense is satisfied that he is non compos mentis, and he has been so for four successive terms, it may discharge him from custody upon the recognizance of good and sufficient sureties, acknowledged before the court, for his personal appearance at the next succeeding term, in such sum as the court may direct. And the court may renew the recognizance from term to term in its discretion, so long as the defendant continues under the disability.

§ 5429.
Insanity of
person in-
dicted for
crime.

* "This amendatory section, which, if in force, would supersede the preceding section, is doubtless repealed by the terms of § 5559 a, sub-sec. 1; * * *—Thompson & Steger."

TEXAS.

GOVERNMENT OF AUSTIN ASYLUM.

1. Establishment and control.
2. Government vested in board of managers, residence.
3. Board, how constituted.
4. Compensation of managers.
5. Organization of board.
6. Monthly meetings, accounts.
7. General powers of managers.
8. Powers and duties.
9. Inspection of asylums.
10. Annual report.
11. Superintendent, term of office, qualifications.
12. Oath of office, bond.
13. Filing of bond.
14. Removal for cause.
15. Powers and duties.
16. Further powers and duties.
17. Accounts and reports.
18. Records of admission.
19. Inventories of property.
20. Not to be interested in purchases and contracts.
21. Appropriation, how paid.
22. Expenditures controlled by board, vouchers.
23. Funds contributed, how disposed of, order for.
24. Requisites of order.
25. Treasurer, duties of.

NORTH TEXAS ASYLUM.

26. Establishment and location.
27. Commissioners, appointment, selection of site.
28. Commissioners to take title to land approved.
29. Board of managers, appointment, duties of.
30. Superintendent, appointment, qualifications, duties.
31. Provisions for state asylum to apply to north Texas asylum.
32. Supervision of construction of buildings.
33. Capacity of buildings, specifications for, contracts awarded to lowest bidder, bond of.

ADMISSION AND DISCHARGE.

34. Who may be admitted.
35. Private patients, procedure for admission.
36. Application of, certified by judge.
37. Indigent insane supported by state.
38. Public patients not indigent, reimbursement to state.
39. Private patients, liability for support.
40. Preferences for admission.
41. Harmless and diseased insane, not admitted.
42. Discharge, regulations for.
43. Discharged patients supplied with clothing and money.
44. Commitment, expenses of, borne by county.
45. Reimbursement to county.
46. Removal, expenses of, borne by state.
47. Escape, proceedings upon.
48. Fees for apprehension of escaped patients.
49. Arrest of insane.
50. Warrants of arrest, requisites of.
51. Jury to be summoned.
52. Duties of attorney.
53. Jury empaneled, form of oath.
54. Special issues submitted to jury.
55. Verdict of jury.
56. Judgment and commitment.
57. Support, reimbursement to state.
58. Limit of amount recoverable.
59. Duties of county attorney in suits for recovery.
60. Warrant of commitment.
61. Commitment to friends, bond of.
62. Record of proceedings, transmitted to asylum.
63. Admitted patients supplied with clothing.

CRIMINAL INSANE.

64. Fact of insanity stated in verdict of acquittal.
65. Proceedings on finding of insanity after plea of guilty.
66. Inquest of insanity after conviction.
67. Affidavit of insanity of any defendant in civil suit.

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| 68. Empaneling of jury.
69. Defendant's counsel, right to open and close.
70. Appointment of counsel.
71. Proceedings to be informal.
72. Suspension of proceedings.
73. Commitment to asylum.
74. Confined in asylum until recovery.
75. On recovery, resumption of proceedings. | 76. Certificate of sanity by superintendent.
77. Proceedings upon certificate.
78. Re-commitment on relapse.
79. On recovery, fact of insanity not to affect proceedings.
80. Non-accountability to law.
81. Common law rules of evidence apply to proof of insanity. |
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1. The asylum heretofore established by law at the seat of government and any other that may hereafter be established elsewhere for the care and treatment of insane persons shall be managed and controlled in accordance with the provisions of this title.

Revised Statutes 1879, § 66, as amended '83, ch. 102, § 1. Lunatic asylums established.

2. The general control, management and direction of the affairs of the Texas asylums for the insane shall be vested in a board of managers, to be styled, the board of managers of the lunatic asylums, subject only to such rules and regulations as may be prescribed by the legislature. Three of the members of each board shall reside within five miles of their respective asylums.

§ 67, as amended 1883, ch. 102. Board of managers.

3. The governor shall appoint for the lunatic asylum and each branch thereof a board of managers consisting of five members, who shall hold their terms of office as follows: two shall hold their office for two years: two for four years and one for six years or until their successors are appointed and qualified: and, whenever a vacancy occurs in said boards, it shall be filled by the governor and the term of office of the person so appointed shall be for the unexpired term of the person whose place is made vacant. The board of managers shall be appointed by the governor, by and with the advice and consent of the senate.

§ 68, as amended 1883, ch. 102. Board, how constituted.

4. Each of the members of the board of managers shall be paid five dollars per day and five cents a mile for going to and returning from the asylums for the purpose of holding their monthly meetings, provided for by this act and no member shall be paid, except in case of his actual attendance on said meetings, and the certificate of the president of the board of managers, approved by the superintendent shall be a sufficient voucher for the comptroller to draw his warrant upon the treasurer for the amount due each member of said board, for his attendance on said

§ 68 a, as amended 1883, ch. 102. Compensation.

meetings; *provided*, no meeting shall be for a longer time than one day.

5. The board of managers shall choose one of their number president, and the superintendent of the asylum shall be ex-officio secretary of the board. A majority of the members of the board shall constitute a quorum for the transaction of its business.

6. The board of managers shall hold monthly meetings at the asylum and a full account of all their acts and proceedings shall be recorded by the secretary in a book to be provided for that purpose.

7. The members of said board of managers, shall be persons distinguished for their philanthropy, and when appointed in accordance with this act, they shall have the general direction and control of all the property and business of the asylums, in accordance with the requirements of law, and in all those cases not provided for by law, they shall have such direction and control of the property and business of the asylums according to the by-laws, rules, and regulations of the asylums. They may take and hold in trust any gift or devise of real or personal estate for the benefit of the said asylum and apply the same as the donor or devisor may direct.

8. The board of managers shall have power

- (1) To make all necessary by-laws and regulations not inconsistent with the constitution and laws of this state for the government of their institutions, officers, employes and inmates and for the admission of visitors.

(2) To determine the salaries and wages of all officers and employes of the asylums.

(3) To discharge, upon the recommendation of the superintendent, any officer, employe or patient in the asylums.

(4) Upon the nomination of the superintendent, to appoint the assistant physicians, steward, matron and apothecary to the asylum.

(5) To examine the accounts and vouchers of the superintendent, and to reject or approve the same as they may deem right and proper.

(6) To exercise a careful supervision over the general opera-

tions and expenditures of the asylums, and to direct the manner in which its revenues shall be disbursed.

(7) They shall also cause to be kept a clinical record of all cases admitted in the asylums.

9. The managers shall maintain an effective inspection of their asylums, a committee for which purpose shall visit them once every month, a majority once every quarter and the whole board once a year, at the time and in the manner prescribed by the by-laws. In a book kept by the managers for this purpose, the visiting manager or managers shall note the date of each visit, the condition of the house; the patients, etc., with the remarks of commendation or censure and all of the managers present shall sign the same.

10. The general result of these inspections, with suitable hints and suggestions, shall be inserted in the biennial report detailing the past year's operations and actual state of the asylums, which the board shall make to the legislature in the month of January of each alternate year beginning with the year 1885, accompanied by the report of the medical superintendent and steward.

11. The board of managers of the lunatic asylum shall elect a medical superintendent of their respective asylums, who shall hold their offices for two years. He shall be a married man, a skilful physician, a good executive officer, and he shall also be experienced in the treatment of insanity. He shall have had special advantages and practical experience in the management of hospitals for the insane, and in the treatment of insanity by a residence for at least three years in such an institution. He shall reside in the asylum with his family, or in a house near the asylum erected for the purpose: and he shall devote his whole time exclusively to the duties of his office.

12. The superintendent shall, before entering upon the duties of his office, take the oath prescribed by the constitution for all officers of the state, and shall enter into bond in the sum of ten thousand dollars, with two or more good and sufficient sureties, to be approved by the treasurer of the state, payable to the state, and conditioned for the faithful performance of his duties as superintendent.

§ 73,
as amended
1883, ch. 102,
Stated inspection.

§ 74,
as amended
1883, ch. 102,
Annual report.

§ 75,
as amended
1883, ch. 102,
Superintendent.

§ 77,
Oath and
bond.

13. The bond provided for in the preceding article, shall be
§ 78.
Bond, where
filed, etc. filed in the office of the treasurer of the state, and shall not become void upon a first recovery thereon, but may be sued upon until the full penalty is recovered. And certified copies of such bond, under the hand and official seal of the state treasurer, may be used in evidence in all courts and proceedings in this state with like effect as the original.

14. The board of managers shall have power to remove
§ 79, as amended
1883, ch. 102.
Removal. the superintendent for good and sufficient cause only.

15. The superintendent shall be the chief medical and dis-
§ 80,
as amended
1883, ch. 102.
Powers and
duties of
superintend't. bursing officer of the institution and subject to the by-laws, shall have general care and control over everything connected therewith. He shall attend to the enforcement of the laws of this state relating to the asylums, and the by-laws of the institution and shall take care that all employes connected therewith, diligently and faithfully perform the duties assigned to them: and it shall be his duty to admit any of the board of managers into every part of the asylum, and to exhibit to him or them on demand all the books, papers and accounts belonging to the institution or pertaining to its business, management, discipline or government, also to furnish copies, abstracts and reports whenever required by the board.

16. The superintendent shall also, with the consent of the
§ 81.
Same subject. board of managers, employ such officers, attendants, and other persons as may be required for the service of the institution, and with like consent may discharge them at pleasure. He shall also receive and discharge patients, superintend repairs and improvements, and take care that all moneys entrusted to him are judiciously and economically expended.

17. The superintendent shall keep also an accurate and de-
§ 82.
Account and
report of
superintend't. tailed account of all moneys received and expended by him, specifying the sources from which such moneys were received, and to whom and on what account paid out; and on the first days of January and July of each year he shall report the same under oath to the governor.

18. The superintendent shall also keep a register of all patients received into the asylum and discharged therefrom, together with a full record of all the operations of the institution; and on the first day of November of each year he shall report such operations in full to the governor, accompanied with such suggestions and recommendations concerning the management and operations of the asylum as he may deem important.

§ 83.
Same subject.

19. On the first day of November of each year the superintendent shall cause an inventory of all the personal property belonging to the asylum to be prepared, in which inventory the estimated value shall be set opposite each article, and shall submit the same to the board of managers.

§ 84.
Annual inventory.

20. No manager or other person connected with the asylum shall sell or be in any way concerned in the sale of any merchandise, supplies or other articles to the asylum, or have any interest in any contract therewith.

§ 85.
Officer not to deal with asylum.

21. The appropriations made from time to time by the legislature for the support and maintenance of the asylum shall remain on deposit in the state treasury and be paid out, as are other public funds, upon the warrant of the comptroller of public accounts.

§ 86.
Asylum money to remain in the treasury.

22. The board of managers may adopt such regulations as they deem proper and necessary for the payment of expenses other than salaries, the supplies provided for in chapter three of this title and such other expenditures as may be regulated by law; but under such regulations no money appropriated by law shall be drawn from the treasury except upon vouchers specifying in detail the exact purpose for which the same is needed, certified as true and correct by the superintendent and approved by the president of the board of managers.

§ 87.
Board may regulate expenditures.

23. All funds of every character received into or belonging to the asylum, other than the sums of money appropriated for its support from time to time by the legislature, shall, as soon as received, be paid over to the state treasurer by the superintendent or other person receiving it, and the treasurer shall keep the same separate and apart from all other funds in his hands, and shall pay the

§ 88.
Funds from outside sources, how disposed of.

same out only on the order of the superintendent, approved by the president of the board of managers.

24. The order mentioned in the preceding article shall specify on its face the purpose for which it is drawn and shall be deemed a sufficient voucher for the payment of the amount of money therein specified.

§ 89.
Requisites of
the order.

25. The treasurer of the state shall keep an exact account of the moneys received by him belonging to the asylum, from what source received, and to whom paid out and on what account, and to each annual report that he may be required to make by law to the governor or the legislature he shall append a full report of his account with the asylum, showing the receipts and expenditures thereof for the year for which such report is made.

§ 90.
Duties of
treasurer.

26. There shall be established and maintained a branch asylum for the care and treatment of the insane, the same shall be located at least one hundred and fifty miles from the city of Austin, and in north Texas.

Act of 1883,
ch. 18. § 1.
Branch asy-
lum, establish-
ment of.

27. The governor shall appoint three commissioners, who shall select the site for said branch asylum, who shall receive the sum of five dollars per day, and their actual and necessary expenses incurred during the time of such service, which time shall not exceed thirty days; their accounts to be certified by the president of said board of commissioners, and approved by governor, which shall be sufficient evidence to the comptroller upon which to audit the claims, and draw his warrant upon the treasurer for the respective amounts; and said board of commissioners, in selecting the site for said asylum, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants; the supply of water, building material and fuel, drainage, fertility of soil and healthfulness, and the same shall contain at least four hundred acres, and not more than two thousand acres of land.

Ibid § 2.
Commission-
ers to select
site, etc.

28. When said board shall have made their report to the governor, and the same has been approved by him, they shall, after thorough investigation, take title to the land selected, in the name of the state, for the use and benefit of the state lunatic asylum.

Ibid § 3.
Titles taken,
etc.

29. The governor of the state shall appoint a board of managers to consist of five persons, citizens of the state, who shall be governed by existing laws, and whose duties shall be the same as now prescribed by title 8* of the Revised Civil Statutes.

Ibid § 4.
Board of managers.

30. The governor shall appoint, by and with the consent and advice of the senate, a superintendent of said branch asylum, whose duties, qualifications, term of office and emoluments, shall be the same as are now, or may hereafter be provided, by law, for the superintendent of the lunatic asylum.

Ibid § 5.
Superintendent appointed.

31. The support and general management of said asylum shall be the same in every respect as are provided in title 8, of the Revised Civil Statutes.

Ibid § 6.
General government.

32. The superintendent of said asylum, and a building supervisor, who shall be employed by the governor, shall supervise the construction of all buildings erected upon said asylum grounds, as provided for in this act.

Ibid § 7.
Supervision.

33. There shall be constructed upon said grounds, so selected, permanent and substantial buildings, sufficient to accommodate at least five hundred inmates; said buildings to be provided with modern improvements for furnishing water, heat, ventilation and sewerage; and the governor shall, immediately after the passage of this act, and receiving the report of the commission provided for in the second section of this bill, advertise for plans and specifications for said buildings, for sixty days, and he, together with the comptroller and treasurer, shall let the contract for the construction of said buildings, according to such plan and specifications as they may adopt, to the lowest responsible bidder, who shall give a good and sufficient bond for the completion of the buildings according to the contract.

Ibid § 8.
Construction, size, etc.

34. The following persons may be admitted into the asylum as patients:

(1) All persons who have been adjudged insane by a court of competent jurisdiction in this state and ordered to be conveyed to the asylum. This class shall be known as public patients.

§ 91.
Who may be admitted.

(2) All persons who may be certified to be insane by some

* See §§ 66-90, pl. 1-25, *supra*.

respectable physician, under the regulations hereinafter prescribed. This class shall be known as private patients.

35. Before any person can be received as a patient under paragraph two of the preceding article, the parent or legal guardian of such person, or, in case he has no parent or legal guardian, then some near relative or other person interested in him, must present a written request to the superintendent for his admission, setting forth the name, age and residence of the lunatic, together with such other particulars as may be required by the superintendent or the by-laws of the institution, which written request must be under oath of the party presenting it, and be accompanied with the affidavit of the physician certifying to the insanity that he has made careful examination of the person for whom admission is applied for and verily believes him to be insane.

36. The application referred to in the preceding article must also be accompanied by a certificate from the county judge of the county where the lunatic resides, that the physician certifying to the insanity of the person is a respectable physician, in regular practice, which certificate of the county judge must be attested by the seal of the county court of his county.

37. All indigent public patients shall be kept and maintained at the expense of the state.

38. All public patients not indigent shall be kept and maintained at the expense of the state in the first instance, but in such cases the state shall be entitled to reimbursement in the mode pointed out in articles 114 and 115 of this chapter.

39. All private patients shall be kept and maintained at the asylum at their own expense or the expense of their relatives or friends and for the board of such patients the superintendent may make a special contract at a rate of not less than five dollars per week; and at the time of the admission of any such patient into the asylum his board must be paid in advance for six months, and bond and security given for the prompt payment of all future expenses of such patient as may from time to time be required by the by-laws of the institution.

40. If applications be made for the admission of more pa-

tients than can be accommodated in the asylum preference shall be given in all instances to public over private patients, and of the former class to cases of less than one year's duration over chronic cases, and to indigent patients over those possessed of property, and no private patients shall be admitted during pendency of an application by public patient, nor shall any public non-indigent patient be admitted during the pendency of an application by an indigent public patient.

§ 97,
as amended
1883, ch. 102.
Preferences
in admission.

41. No idiot who can be safely kept in the county to which he belonged, nor any person laboring under a contagious or infectious disease, shall be received into the asylum as a patient.

§ 98.
Idiots, etc.,
not admitted.

42. Any patient, except such as are charged with, or convicted of some offense and have been adjudged insane in accordance with the provisions of the code of criminal procedure, may be discharged from the asylum at any time upon the recommendation of the superintendent approved by the board of managers. Any patient coming within the above exception can only be discharged by order of the court by which he was committed.

§ 99.
Discharge of
patients.

43. No patient shall be discharged without suitable clothing and sufficient money to pay his necessary expenses home; and when a patient is discharged uncured, he shall be provided with a suitable guard and conveyed to his friends or to the county from which he was sent.

§ 100.
Same subject.

44. The expenses of conveying all public patients to the asylum shall be borne by the counties, respectively, from which they are sent, and said counties shall pay the same upon the sworn account of the officer or person performing such service, showing in detail the actual expenses incurred in the transportation.

§ 101.
County to pay
expenses of
conveying
public
patients.

45. In case any public patient is possessed of property sufficient for the purpose, or any person legally liable for his support is so possessed of property, the county paying the expenses of such transportation shall be entitled to reimbursement out of the estate of the lunatic, or the property of the person legally liable for his support, which may be recovered by the county in an ordinary action in any court of competent jurisdiction.

§ 102.
County to be
reimbursed,
when.

46. The expense of conveying to their homes public patients discharged from the asylum, and the necessary clothing furnished them at the time of their discharge, shall be paid by the state.

§ 103.
Transportation
home by the
state.

47. If any patient confined in the asylum shall escape therefrom, it shall be the duty of any sheriff or peace officer to apprehend and detain him and to report the same to the county judge of the county, and also to the superintendent of the asylum, and upon the order of either to convey such patient back to the asylum.

§ 104.
Escape from
asylum.

48. Any officer who may convey a patient to the asylum in accordance with the provisions of the preceding article shall be paid for such service out of the funds of the asylum, at the rate of ten cents per mile for himself and each necessary guard he may employ, going and returning, and the same for the patient going, the distance to be determined by the superintendent, according to the most direct traveled route.

§ 105.
Fees for appre-
hending.

49. If information, in writing and under oath, be given to any county judge that any person in his county is a lunatic or non compos mentis, and that the welfare of himself or of others requires that he be placed under restraint, and said county judge shall believe such information to be true, he shall forthwith issue his warrant for the apprehension of such person, and shall fix a day for the hearing and determination of the matter.

§ 106.
Apprehension
of lunatics.

50. The warrant provided for in the preceding article shall run in the name of the "State of Texas," shall be directed to the sheriff or any constable of the county, and the officer receiving it shall forthwith take into his custody the person named therein, and at the designated time have him before the county judge for trial and examination.

§ 107.
The writ and
its requisites.

51. At the time of issuing the warrant mentioned in the preceding article the county judge shall also issue an order to the sheriff or constable, directing him to summon a jury of six competent jurors of the county to be and appear before such judge at the time and place designated in said order, for the hearing and determination of the matter.

§ 108.
Jury to be
summoned.

52. The cause shall be docketed on the probate docket of the court in the name of the state of Texas as plaintiff, and of the person charged to be insane as defendant.

§ 109.
Cause to be
docketed.

The county attorney shall appear and represent the state on the hearing, and the defendant shall also be entitled to counsel; and in proper cases the county judge may appoint counsel for that purpose.

53. At the time appointed for the hearing, or at any other time to which the proceeding may have been postponed, the cause shall be called for trial and a jury of six men empaneled, to whom shall be administered the following oath: "You and each of you do solemnly swear (or affirm) that upon all the issues about to be submitted to you in the matter of the state of Texas against A. B., you will a true verdict render according to the evidence, so help you God."

§ 110.
Jury empaneled and sworn.

54. After the evidence is heard the county judge shall submit the matter to the jury upon the following special issues:

§ 111.
Special issues to be submitted.

- (1) Is A. B., the defendant, of unsound mind?
- (2) If the defendant is of unsound mind is it necessary that he should be placed under restraint?
- (3) If you answer both the foregoing questions in the affirmative, then what is the age and nativity of the defendant?
- (4) How many attacks of insanity has he had, and how long has the present attack existed?
- (5) Is insanity hereditary in the family of defendant or not?
- (6) Is the defendant possessed of any estate, and if so of what does it consist and its estimated value?
- (7) If the defendant is possessed of no estate are there any persons legally liable for his support? If yea, name them.

55. The jury shall return plain answers in writing to the issues named in the preceding article, but if they find either the first or second issue in the negative, they need not determine further, and the defendant shall be discharged.

§ 112.
Verdict.

56. Upon return of verdict finding that the defendant is of unsound mind, and that it is necessary that he be placed under restraint, judgment shall be entered adjudging the defendant to be a lunatic, and ordering him to be conveyed to the lunatic asylum for restraint and treatment.

§ 113.
Judgment.

57. The special issues submitted to the jury, with the an-

§ 114.
Reimburse-
ment to the
state from lu-
natics not in-
digent.

swers thereto, shall be incorporated in the judgment, and if it be found that the defendant is possessed of property, or that some other person is legally liable for his support, the county judge may, from time to time, upon request of the superintendent of the lunatic asylum, cite the guardian of such lunatic, or other person legally liable for his support, to appear at some regular term of the county court for civil business, then and there to show cause why the state should not have judgment for the amount due it for the support and maintenance of such lunatic, and if sufficient cause be not shown judgment may be entered against such guardian or other person for the amount found to be due the state, which judgment may be enforced as in other cases.

§ 115.
Limitation as
to amount
and pro-
cedure.

58. The state, in cases provided for in the preceding article, shall in no instance recover more than five dollars per week for the support of any lunatic, and the certificate of the superintendent of the lunatic asylum as to the amount due shall be sufficient evidence to authorize the court to render judgment.

§ 116.
County attorney
to represent state.

59. The county attorney shall appear and represent the state in all cases provided for in the two preceding articles.

§ 117.
Warrant to
convey luna-
tic to asylum.

60. Immediately after any person is adjudged a lunatic the county judge shall communicate with the superintendent of the asylum, and, if notified by the latter that there is a vacancy in the institution or that the patient can be accommodated, he shall issue his warrant to the sheriff, or some other suitable person, directing him to convey the lunatic to the asylum without delay, which warrant shall prescribe the number of guards to be allowed, in no case to exceed two, and shall be executed with all convenient dispatch.

§ 118.
Relative or
friend may
give bond, etc.

61. No warrant to convey a lunatic to the asylum shall issue if some relative or friend of the lunatic will undertake, before the county judge, his care and restraint, and will execute a bond in a sum to be fixed by the county judge, payable to the state, with two or more good and sufficient sureties to be approved by the county judge, conditioned that the party giving such bond will restrain and take proper care of the lunatic so long as his mental unsoundness

continues, or until he is delivered to the sheriff of the county or other person, to be proceeded with according to law; which bond shall be filed with and constitute a part of the record of the proceeding, and may be sued and recovered upon by any party injured, in his own name.

62. The proceedings in any inquisition of lunacy shall be entered of record in the probate minutes of the county court by the clerk thereof, and before any patient is sent to the asylum the county judge shall cause a complete transcript of the proceedings to be made up and certified by the clerk of the county court under the seal of said court, which transcript he shall forward by mail to the superintendent of the asylum.

§ 119.
Record made
up and for-
warded.

63. Before sending any patient to the asylum, the county judge shall take care that the patient is provided with two full suits of substantial summer clothing and one full suit of substantial winter clothing.

§ 120.
Suitable
clothing to be
provided.

64. When the defendant is acquitted on the ground of insanity the jury shall so state in their verdict.

C. C. P.,
§ 722.

65. When a jury has been empaneled to assess the punishment upon a plea of "guilty," they shall say in their verdict what the punishment is which they assess; but where the jury are of the opinion that a person pleading guilty is insane they shall so report to the court, and an issue as to that fact be tried before another jury, and if upon such trial it be found that the defendant is insane, such proceedings shall be had as are directed in title 12, chapter 2 [1] of this code.*

C. C. P., § 723.
Verdict on a
plea of guilty
by a person
insane.

66. If it be made known to the court at any time after conviction, or if the court has good reason to believe that a defendant is insane, a jury shall be empaneled to try the issue.

C. C. P., § 947.
Insanity after
conviction.

67. Information to the court as to the insanity of a defendant may be given by the written affidavit of any respectable person, setting forth that there is good reason to believe that the defendant has become insane.

C. C. P., § 948.
Information
as to insanity.

68. For the purpose of trying the question of insanity the court shall empanel a jury as in the case of a criminal action.

C. C. P., § 949.
Jury em-
paneled.

* See §§ 947-960, pl. 66-79, *infra*.

69. The counsel for the defendant has the right to open
C. C. P., § 950.
 Defendant's counsel may
 open and conclude. and conclude the argument upon the trial
 of an issue as to insanity.

70. If the defendant has no counsel, the court shall appoint
C. C. P., § 951. counsel to conduct the trial for him.

71. No special formality is necessary in conducting the
C. C. P., § 952.
 No special
 formality re-
 quired on trial. proceedings authorized by this chapter. The court
 shall see that the inquiry is conducted in such a
 manner as to lead to a satisfactory conclusion.

72. When upon the trial of an issue of insanity, the defend-
C. C. P., § 953.
 Proceedings
 suspended. ant is found to be insane, all further proceedings
 in the case against him shall be suspended until
 he becomes sane.

73. When a defendant is found to be insane, the court shall
C. C. P., § 954.
 Court shall
 commit insane
 defendant. make an order, and have the same entered upon
 the minutes, committing the defendant to the cus-
 tody of the sheriff, to be kept subject to the further
 order of the county judge of the county.

74. When a defendant has been committed, as provided in
C. C. P., § 955.
 Shall be con-
 fined in luna-
 tic asylum
 until, etc. the preceding article, the proceeding shall forthwith
 be certified to the county judge, who shall take the
 necessary steps, at once, to have the defendant con-
 fined in the lunatic asylum, as provided in the case of other
 lunatics, until he becomes sane.

75. Should the defendant become sane, he shall be brought
C. C. P., § 956.
 When the de-
 fendant be-
 comes sane,
 etc. before the court in which he was convicted, and a
 jury shall again be empaneled to try the issue of his
 sanity; and should he be found to be sane, the con-
 viction shall be forced against him in the same manner as if
 the proceedings had never been suspended.

76. The fact that the defendant has become sane, may be
C. C. P., § 957.
 Affidavit of
 sanity of de-
 fendant. made known to the court in which the conviction
 was had by the official certificate, in writing, of the
 superintendent of the lunatic asylum where he is
 confined; or, if not confined in the lunatic asylum, by the
 affidavit, in writing, of any credible person.

77. When a certificate, or affidavit, such as is provided for
C. C. P., § 958.
 Proceedings
 upon affidavit. in the preceding article is presented to the judge, or
 court, either in vacation or in term time, such
 judge, or court, shall issue a writ, directed to the officer having

custody of such defendant, commanding such officer to bring the defendant before the court immediately, if the court be then in session; and if the court be not then in session, to bring the defendant before the court at its next regular term for the county in which the conviction was had, which writ shall be served and returned as in case of the writ of habeas corpus, and under like penalties for disobedience.

78. Should the defendant again be found to be insane he shall be remanded to the custody of the superintendent of the lunatic asylum, or other proper officer.

C. C. P., § 909.
When defendant is again found to be insane.

79. When, upon the trial of an issue of insanity, it is found that the defendant is sane, the judgment of conviction shall be enforced as if no such inquiry had been made.

C. C. P., § 900.
Conviction shall be enforced, when.

80. No act done in a state of insanity can be punished as an offense. No person who becomes insane after he committed an offense, shall be tried for the same while in such condition. No person who becomes insane after he is found guilty shall be punished for the offense while in such condition.

P. C., § 39.
Insanity a defense.

81. The rules of evidence known to the common law, in respect to the proof of insanity, shall be observed in all trials where that question is in issue. The manner of ascertaining whether the insanity is real or pretended, when it is alleged that the defendant became insane after the commission of the offense, is prescribed in the code of criminal procedure.

P. C., § 40.
Proof of insanity, according to common law.

UTAH.

GOVERNMENT OF ASYLUM.

1. Establishment and title.
2. Board of directors, term of office; governor to be ex-officio member.
3. Vacancies, how filled.
4. Oath of office, organization.
5. Selection of site.
6. To adopt plans and provide for erection of buildings.
7. Not to be interested in contracts.
8. Capacity of asylum.
9. Board of directors, powers and duties, inspection of asylum; superintendent, appointment.
10. Treasurer, not to be a director, term of office, duties.
11. Secretary, duties.
12. Directors, compensation.
13. Superintendent, qualifications, powers and duties.
14. Assistant physician, qualifications, duties, term of office.
15. Removal of officers.

ADMISSION AND DISCHARGE.

16. Appropriation for support of asylum.
17. Appropriation, when drawn.
18. Biennial report of directors.
19. Inquisition of lunacy, proceedings, commitment.
20. Idiots and harmless chronic insane not admitted.
21. Investigation of indigence, liability for support, unexpended moneys refunded; money found on person,

- disposition of; discharge to custody of friends; recommitment.
22. Non-resident insane delivered to friends; temporary support.
23. Transfer to asylum from counties.
24. Charges for support fixed by directors; liability for support.
25. Inquisition of lunacy by probate judge.
26. Guardian appointed.
27. Duty of guardian, bond.
28. Investigation of sanity.
29. Removal of guardians.
30. Guardianship, when terminated.

CRIMINAL INSANE.

31. Non-accountability to law.
32. Inquest of insanity before trial.
33. Proceedings on inquest.
34. Suspension of judgment during insanity, commitment; on recovery, remanded to custody.
35. Commitment exonerates bail.
36. Notice of recovery, remanded to custody.
37. Expenses of commitment and removal, how borne.
38. Insane after judgment of death, inquest of insanity.
39. Duty of prosecuting attorney at the inquest.
40. Records of inquest to be filed.
41. Proceedings upon finding of jury.
42. Sale of intoxicating liquors to Indian insane, penalty.

1. There shall be established upon a site to be selected by the board of directors hereinafter provided for, an institution for the care and treatment of the insane, to be designated and known as the territorial insane asylum.

Act of 1880,
ch. 31, § 1.
Territorial in-
sane asylum
established.

2. [Six persons named] are hereby constituted a board of directors of the territorial insane asylum, and shall hold their office until their successors, who shall be elected by the legislative assembly, and whose term

Ibid § 2.
Board of di-
rectors ap-
pointed.

of office shall be four years, shall be elected and qualified. At said election such choice shall be made that three of the persons comprising the board of directors shall always consist of citizens of the county in which said asylum shall be situated. They shall be divided into two classes, in the order of their names as herein recorded: the first, second and third named shall go out of office at the expiration of two years from the passage of this act; the fourth, fifth and sixth shall go out of office at the expiration of four years from the passage of this act; *provided*, that the governor of this territory shall be and is hereby made ex-officio a member of said board.

Successors,
how elected,
term of office,
etc.

Governor of
territory a
member of
board.

3. In case of a vacancy occurring in said board, when the legislature is not in session, said board may fill such vacancy until the next session thereof, and then the legislature shall proceed to fill such vacancy.

Ibid § 3.
Vacancies,
how filled.

4. The directors shall qualify by taking an official oath within twenty days after their appointment, which shall be filed with the auditor of public accounts of this territory; and within thirty days after their appointment, they shall meet and organize, by selecting of their number a president, who shall preside at their meetings, and perform such other duties as may be prescribed by the by-laws; they shall, at the same time and place, elect from their number a vice-president, who shall perform the duties of the president in his absence. They shall also elect from their number a secretary.

Ibid § 4.
Directors to
take oath of
office; organi-
zation.

5. The directors shall proceed to make a selection of a site for said asylum, which selection of site shall be confined to that portion of this territory embraced in the counties of Salt Lake, Utah, Davis and Weber; the directors being authorized, upon the above named basis, to fix more definitely the limits to the territory to be admitted in the selection of said site. In making a selection for a site for said institution, the directors shall not be influenced by any offers of money or property, but shall decide upon said site solely upon the grounds of healthfulness, adaptability to the purposes of the institution, cost of material for construction, and convenience of access from the different portions of this territory. They shall have power to receive by gift, or to con-

Ibid § 5.
Site for asy-
lum to be
selected.

tract for and to make purchase of such site for the location of said asylum.

6. The directors shall procure and adopt plans, drawings and specifications for the construction of the asylum buildings, and the improvement of the grounds, and shall make provision for the erection of the buildings, and cause the same to be carried out in accordance with such plans and specifications, and on such terms as they may deem proper; *and further provided*, that the directors shall not adopt any plans for the asylum or other buildings, that will not secure the building and finishing of at least one section thereof, suitable for the accommodation and treatment of patients, with the appropriation named in this act.

Ibid § 6.
Directors to procure and adopt plans, etc., and provide for erection of buildings.

7. The directors and other officers shall have no interest, direct or indirect, in the furnishing of any building materials, or in any contracts for the same, or in any contract for labor in the erection of said asylum, nor in any contract for any labor, material or supplies for the maintenance thereof.

Ibid § 7.
Directors shall have no interest in contracts, etc.

8. The plans and specifications for said asylum shall be upon the basis of accommodating not exceeding two hundred and fifty patients at any one time.

Ibid § 8.
Number of patients to be provided for.

9. The board of directors shall be known by the name and style of the board of directors for the insane asylum, and by that name they and their successors shall be known in law, may sue and be sued, in any of the courts of this territory, and may receive, take and hold property, both real and personal, in trust for the territory, and for the use and benefit of said asylum.

Ibid § 9.
Name of board of directors.

Their powers and duties.

They shall have power to govern, manage and administer the affairs of said asylum, and make and adopt by-laws for their own government and the government of said asylum, not repugnant to the laws of the United States or of this territory. They shall cause to be kept by the secretary a full and correct record of their proceedings, which shall be open at all times to the inspection of any citizen desiring to examine the same. They shall hold stated meetings at the asylum quarterly at such time as may be prescribed by the by-laws, and a majority of the board shall constitute a quorum for the transaction of business. They shall make a thorough inquiry into all the

departments of labor and expense, and a careful examination of all the buildings, property and general condition of the asylum. They shall submit to the legislative assembly biennially, during the first week of its session, a report showing the receipts and expenditures, the general condition of the asylum, the number of patients under treatment during the two preceding years, and such other matters touching the general affairs of the asylum as they may deem advisable. As soon as they shall deem it necessary for the proper completion, furnishing and management of said institution, the board of directors shall elect a medical superintendent, whose term of office shall be four years and until his successor is elected and qualified, and thenceforth the directors shall elect the medical superintendent, when it becomes necessary by the expiration of his term of office or by the occurrence of a vacancy in said office.

Election of a superintendent; his term of office.

10. The board of directors shall elect a treasurer, who shall not be of their number, and who shall hold his office for two years and until his successor is elected and qualified. Before entering upon his duties the treasurer shall qualify by taking the usual oath of office, and shall give bond with good and sufficient sureties in a sum not less than ten thousand dollars, payable to the territory of Utah, to be approved by the auditor of public accounts, and conditioned for the faithful performance of his duties, according to law, and for the delivery to his successor of all books, papers, vouchers, moneys and effects held by him by virtue of his office. The board of directors may increase the amount of the bonds of the treasurer, and may require additional security at any time, and they may remove him for good and sufficient cause. The treasurer shall render to the board of directors, quarterly, at such time as may be prescribed by the by-laws, a detailed statement of the moneys received and disbursed by him during the preceding quarter, and shall perform such other duties as the board of directors may require. He shall have a yearly salary, to be fixed by the board of directors, payable quarterly out of any moneys appropriated to the use of the asylum or in its treasury.

Ibid § 10. Treasurer to be elected, his duties and compensation.

11. The secretary shall have charge of the books and accounts of the board of directors. He shall keep a

Ibid § 11.

Duties and
compensation
of secretary.

record of their proceedings at all stated or called meetings, and shall perform such other duties as the by-laws may prescribe or as the board of directors may require. He shall have such salary or compensation for his services as may be fixed by the board of directors, payable quarterly.

Ibid § 12.
Compensation
of directors.

12. Each director shall receive as his compensation, four dollars per diem for each meeting of the board at which he shall be present, payable out of any moneys appropriated to the use of the asylum; *provided*, that any director whose residence is out of the county in which said asylum is situated, shall be allowed for traveling expenses, mileage at the rate of ten cents per mile for the distance necessarily traveled in attending the meetings of the board.

Ibid § 13.
Qualifications
and duties of
medical sup't.

13. The medical superintendent shall be a well educated and experienced physician, and a regular graduate in medicine, and shall have practiced at least five years from the date of his diploma. He shall be the chief executive officer of the asylum. He shall have the general superintendence of the buildings, grounds and property thereof, subject to the laws and regulations of the directors. He shall have control of the patients, prescribe or direct their treatment, adopt sanitary measures for their welfare, and discharge such as in his opinion have permanently recovered their reason. He shall appoint, with the approval

Attendants
may be ap-
pointed; their
compensation.

of the directors, as many attendants as he may think necessary for the efficient and economical care and management of the asylum, and, with the consent of the board of directors, fix their compensation and discharge any of them. He shall prescribe the duties of the subordinate officers and employes, maintain discipline among them and enforce obedience to the laws, rules and regulations adopted for the government of the institution. He shall estimate quarterly in advance the probable expense of the asylum and submit the same to the board of directors at their last regular meeting preceding the commencement of such quarter, for their approval. And the auditor of public accounts is hereby authorized and directed to draw his warrants for the amount of said estimate, approved by the directors, as soon as the same shall have been approved, in three equal sums, in favor of the directors, to be drawn monthly; and the territorial

treasurer is authorized and directed to pay the same out of any moneys appropriated by law for the use and benefit of said asylum. The medical superintendent shall estimate and report to the directors the amount, kind and quality of provisions, fuel and clothing required for the six months ending on the thirty-first day of May and the thirtieth day of November of each year; and the directors shall then advertise for contracts for furnishing said supplies for three successive weeks in one newspaper published in the vicinity of the asylum. The contract or contracts shall be awarded to the lowest bidder or bidders upon their giving to the board of directors satisfactory security for the faithful fulfillment of the same, necessary expenditures other than those for provisions, fuel and clothing may be made by the medical superintendent, subject to the approval of the board of directors. The medical superintendent shall cause to be kept full and correct accounts and records of his official transactions from day to day, in books provided for that purpose, in the mode prescribed in the by-laws. He shall see that his accounts are fully made up to the thirty-first day of December in each year and shall submit his annual report to the board of directors immediately. He shall visit the asylum every day in the year unless he obtain leave of absence from the president of the board of directors in which event the assistant physician shall discharge his duties. He shall receive an annual salary, to be fixed by the board of directors payable monthly, as other attaches are paid.

Supplies to be
furnished by
contract.

Daily record
to be kept.

Annual re-
ports to be
made.

14. When said asylum shall be ready for the admission of patients, and thenceforth when a vacancy occurs in the office hereby authorized, the directors upon the nomination of the medical superintendent, shall elect an assistant physician, who shall be a graduate in medicine. He shall qualify by taking the usual oath of office. His salary shall be fixed by the board of directors, to be paid in the same manner as other employes. He shall make daily visits to the asylum in the absence of the medical superintendent and when requested shall make such visits in company with said medical superintendent. He shall perform such other duties as may be directed by the medical

Ibid § 14.
Assistant
physician to
be elected ;
his compensa-
tion and du-
ties, term of
office.

superintendent and prescribed by the by-laws. His term of office shall be four years and until his successor is appointed and qualified. The duties of the medical superintendent, in his absence or sickness, shall be performed by the assistant physician.

15. The directors may remove any officer or employe of the asylum by a vote of five-sevenths of their number, for habitual and wilful neglect of duty, or for refusal to comply with the requirements of the laws, by-laws and regulations made for the establishment and government of the institution.

*Ibid § 15.
Officers may
be removed,
how.*

16. To carry out the provisions of this act, there is hereby appropriated out of the treasury of this territory, of any moneys not otherwise appropriated, the sum of twenty-five thousand dollars; and the auditor of public accounts is hereby authorized to draw his warrants on the territorial treasurer in favor of the board of directors of said insane asylum.

*Ibid § 22.
\$25,000 appro-
priated.*

17. Of the appropriation herein made, the board of directors shall not draw during the year eighteen hundred and eighty to exceed the sum of twenty thousand dollars of this fund, which shall be expended in the purchasing of grounds, the building and furnishing ready for the admission of patients, the one section of the asylum on the plan that may be adopted by the board of directors in accordance with the provisions of this act.

*Ibid § 23.
\$20,000 to be
drawn in 1880.*

18. The board of directors shall make an itemized report to the legislative assembly during the first ten days of its session in the year eighteen hundred and eighty-two, and biennially thereafter, of all the expenditures made by them for the uses of the asylum during the preceding two years.

*Ibid § 24.
Directors to
make an item-
ized report
biennially to
legislature.*

19. The probate judge of any county in this territory shall, upon application under oath, setting forth that a person, by reason of insanity, is dangerous to be at large, cause such person to be brought before him, and he shall summon to appear at the same time and place, two or more witnesses who well knew the accused during the time of his alleged insanity, who shall testify under oath as to conversation, manners and general conduct

*Ibid § 18.
Investigation
in cases of in-
sanity, before
judge, and
manner of.*

upon which said charge of insanity is based, and shall also cause to appear before him, at the same time and place, two practicing physicians in medicine, before whom the judge shall examine the charge, and if, after a careful hearing of the case and a personal examination of the alleged insane person, the said physicians shall certify on oath that the person examined is insane, and the case is of a recent or curable character, or that the said insane person is of a homicidal, suicidal or incendiary disposition, or that from any other violent symptoms, the said insane person would be dangerous to his or her own life, or to the lives or property of the community, in which he or she may live, and said physician shall also certify to the name, age, nativity, residence, occupation, length of time in the territory, state or country last from, previous habits, premonitory symptoms, apparent cause and class of insanity, duration of the disease and present condition, as nearly as may be ascertained by inquiry and examination; and if the judge shall be satisfied that the facts revealed in the examination establish the existence of the insanity of the person accused, and that it is of a recent or curable nature, or of a homicidal, suicidal or incendiary character, or that from the violence of the symptoms the said insane person would be dangerous to his or her own life, or to the lives or property of others, if at large, he shall direct the sheriff of the county, or some suitable person to convey to and place in charge of the officers of the territorial insane asylum, such insane person, and shall transmit a copy of the complaint and commitment and physician's certificate, which shall always be in the form as furnished to the courts by the medical superintendent of said asylum; and the person taking such insane person to the insane asylum, shall be allowed therefor the same fees as are allowed by law to the sheriff in such cases, to be paid in like manner if such insane person be indigent. And the physicians attending the examination aforesaid shall be allowed by the county court of the county in which the examination is had, five dollars each, unless they are otherwise paid.

Commitment
of insane per-
son by the
Judge.

20. No case of idiocy, imbecility, harmless, chronic mental unsoundness or delirium tremens shall be committed to this asylum; and whenever, in the opinion of the superintendent, after a careful examination

Ibid § 17.
Cases not en-
titled to ad-
mission to
asylum.

of the case of any person committed, it shall be satisfactorily ascertained by the said superintendent that the party had been unlawfully committed, and that he or she came under the rule of exemptions provided for in this section, he shall have the authority to discharge such person so unlawfully committed, and return him or her to the county from which committed, at the expense of said county.

21. The judge shall inquire into the ability of insane persons committed by him to the asylum, to bear the actual charges and expenses for the time that such person may remain in the asylum. In case an insane person committed to the asylum under the provisions of this act, shall be possessed of real or personal property sufficient to pay such charges and expenses, the judge shall appoint a guardian for such person who shall be subject to all the provisions of the general laws of this territory in relation to guardians, as far as the same are applicable; and when there is not sufficient money in the hands of the guardian, the judge may order a sale of property of such insane person, or so much thereof as may be necessary, and from the proceeds of such sale the guardian shall pay to the board of directors, the sum fixed upon by them each month, quarterly in advance, for the maintenance of such ward; and he also, out of the proceeds of such sale, or such other funds as he may have belonging to his ward, [shall] pay for such clothing as the medical superintendent shall from time to time furnish to such insane person; and he shall give a bond with good Bond. and sufficient sureties, payable to the board of directors and approved by the judge, for the faithful performance of the duties required of him by this act, so long as the property of his insane ward is sufficient for the purpose. The board of directors shall furnish such blank bonds as are required by this section, to the several probate judges in this territory. A breach of any bond provided for in this act may be prosecuted in the district court of any district in which such county is situated in this territory, in which any one of the obligors may reside, and the same shall be prosecuted by the attorney of the county in which the action shall be brought, and shall be conducted throughout, and the judgment shall be enforced, as in a civil action for the recovery of a debt. Should there remain

Ibid § 18.
Insane person possessed of property to be responsible for expenses while in asylum.

in the hands of the board of directors or their treasurer, at the time any insane person is discharged, any money unexpended so paid by the guardian or kindred, the same shall be refunded; *provided*, that the board of directors shall not be required to refund any money for a fraction of a month; but upon the death of any insane person, after paying the ordinary burial expenses, the remainder of any moneys received from the guardian, or on deposit with the board of directors, or their treasurer, shall be refunded to the person or persons thereto entitled on demand. Any moneys found on the person of an insane person at the time of arrest shall be certified to by the judge and sent with such person to the asylum, there to be delivered to the medical superintendent, who shall deliver the same to the treasurer, to be applied to payment of the expenses of such person while in the asylum; but upon the recovery of such insane person, all sums remaining unexpended shall be returned to him when he is discharged from the asylum. The kindred or friends of an inmate of the asylum may receive such inmate therefrom, on their giving satisfactory evidence to the judge of the court issuing the commitment, that they or any of them are capable and suited to take charge of and give proper care to such insane person, and give protection against any of his acts as an insane person. If such satisfactory evidence appear to the judge, he may issue an order, directed to the medical superintendent of the asylum, for the removal of such person; but the medical superintendent shall reject all other orders or applications for the release or removal of any insane person. And if after such removal, it is brought to the knowledge of the judge, by verified statement, that the person thus removed is not cared for properly, or is dangerous to persons or property by reason of such want of care, he may order such person returned to the asylum.

Unexpended money to be refunded.

Disposition of moneys found on insane persons.

Inmates of asylum may be delivered to friends; but may be returned by order of the court.

22. Non-residents of this territory conveyed or coming herein, while insane, shall be returned by the director to their home and friends if known, and not be committed to or supported in the territorial insane asylum; but this prohibition shall not prevent the commitment to, and temporary care in said asylum of persons

Ibid § 19. Non-resident insane persons to be returned to friends if known.

stricken with insanity while traveling or temporarily sojourning in this territory.

23. When any section of the asylum provided for in this act is ready for the accommodation of patients, the several probate judges in this territory who are authorized herein to commit insane persons, shall order from their respective counties all persons thereafter by them duly examined and declared insane, to the asylum established by this act; and the cost of transportation of such patients shall be paid by the guardian or friends of the patient transferred, unless he be indigent.

*Ibid § 20.
When patients
may be placed
in asylum.*

24. Until otherwise provided by law, the board of directors are hereby authorized and empowered to establish and fix the rate per week or month, for the care and keeping of patients within the asylum, and if such patients be indigent the cost for their care and keeping shall be a charge against the county from whence they are sent, and must be paid from the treasury of such county by order of the county court.

*Ibid § 21.
Directors to
fix rates for
maintenance
of patients.*

25. When it is represented to the probate judge, upon verified petition of any relative or friend, that any person is insane, or, from any cause mentally incompetent to manage his property, the judge must cause a notice to be given to the supposed insane or incompetent person, of the time and place of hearing the case, not less than five days before the time so appointed, and such person, if able to attend, must be produced before him on the hearing.

*Act of 1880,
p. 75, § 14.
Probate judge
must investi-
gate cases of
insanity.*

26. If, after a full hearing and examination upon such petition, it appears to the probate judge that the person in question is incapable of taking care of himself and managing his property, he must appoint a guardian of his person and estate, with the powers and duties in this chapter specified.

*Ibid § 15.
Guardian
must be ap-
pointed for
insane person.*

27. Every guardian appointed as provided in the preceding section, shall have the care and custody of the person of his ward, and the management of all his estate, until such guardian is legally discharged; and he must give bond to such ward, in like manner and with like conditions as before described with respect to the guardian of a minor.

*Ibid § 16.
Duty of
guardian;
must give
bond to ward.*

28. Any person who has been declared insane, or the guardian, or any relative of such person, within the third degree, or any friend, may apply, by petition, to the probate judge of the county in which he was declared insane, to have the fact of his restoration to capacity judicially determined. The petition shall be verified and shall state that such person is then sane. Upon receiving the petition the judge must appoint a day for the hearing. The judge shall cause notice of the trial to be given to the guardian of the petitioner, if there be a guardian, and to his or her husband or wife, if there be one, and to his or her father or mother, if living in the county. On the hearing, the guardian or relative of the petitioner, and, in the discretion of the judge, any other person may contest the right of the petitioner to the relief demanded. Witnesses may be required to appear and testify, as in other cases, and may be called and examined by the judge of his own motion. If it be found that the petitioner be of sound mind, and capable of taking care of himself and his property, his restoration to capacity shall be adjudged, and the guardianship of such person, if such person be not a minor, shall cease. * * * *

Ibid § 17.
The sanity of a person previously declared insane may be investigated, how.

29. When a guardian, appointed either by the testator or the probate judge, becomes insane, * * * the probate court may, upon such notice to the guardian as the court may require, remove him and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto. * * * *

Ibid § 51.
Guardians may be removed for cause.

30. * * * * * And the guardian of an insane or other person may be discharged by the probate judge when it appears to him, on the application of the ward or otherwise, that the guardianship is no longer necessary.

Ibid § 52.
Termination of guardianship of insane person.

31. A person cannot be tried, adjudged to punishment, or punished for a public offense while he is insane.

Act of 1878, § 454.
Criminal Code.

32. When an indictment is called for trial, if a doubt arises as to the sanity of the defendant, the court must order the question to be submitted to a jury; when such doubt arises, on the defendant being brought up for judgment on conviction, the court must order a jury to

Ibid § 455.
Doubt as to sanity of defendant; how determined.

be summoned from the list of jurors provided by law, to inquire into the fact; and the trial of the indictment or the pronouncing of the judgment must be suspended until the question of insanity is determined by the verdict of the jury.

33. The trial of the question of insanity must proceed in the following order:

§ 456.
Order of trial
of the ques-
tion of in-
sanity.

(1) The counsel for the defendant must open the case and offer evidence in support of the allegation of insanity.

(2) The counsel for the people may then open their case and offer evidence in support thereof.

(3) The parties may then respectively offer rebutting testimony only, unless the court, for good reason in furtherance of justice, permit them to offer evidence upon their original cause.

(4) When the evidence is concluded, unless the case is submitted to the jury on either or both sides without argument, the counsel for the people must commence, and the defendant or his counsel may conclude, the argument to the jury.

(5) If the indictment be for an offense punishable with death, two counsel on each side may argue the case to the jury, in which case they must do so alternately. In other cases the argument may be restricted to one counsel on each side.

(6) The court must then charge the jury, stating to them all matters of law necessary for their information in giving their verdict.

Charge of
court.

34. If the jury find the defendant sane, the trial of the indictment must proceed, or judgment may be pronounced, as the case may be. If the jury find the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court, if it deems his discharge dangerous to the public peace or safety, may order that he be in the meantime committed by the proper officer to a lunatic asylum, and that upon his becoming sane, he be re-delivered to the proper officer.

§ 457.
Verdict of the
jury and pro-
ceedings
thereon.

35. The commitment of the defendant, as mentioned in the last section, exonerates his bail, or entitles a person, authorized to receive the property of the defendant, to a return of any money he may have deposited instead of bail.

§ 458.
If defendant
is committed,
it exonerates
his bail, etc.

36. If the defendant is received into an asylum, he must be detained there until he becomes sane. When he becomes sane, the person having him in charge must give notice of that fact to the proper officer, who must thereupon, without delay, bring the defendant from the asylum, and place him in proper custody until he is brought to trial or judgment, as the case may be, or is legally discharged.

§ 439.
Defendant detained in an asylum until he becomes sane; notice then to be given to proper officer.

37. The expenses of sending the defendant to the asylum, of keeping him there, and of bringing him back are in the first instance chargeable to the county in which the offense was committed, but the county may recover them from the estate of the defendant, if he have any, or from a relative legally bound to care for him, or from the county in which he was a resident.

§ 460.
Expense of sending, etc., defendant to asylum, where chargeable.

38. If, after judgment of death, there is good reason to suppose that the defendant has become insane, the proper officer, with the concurrence of the judge of the court, by which the judgment was rendered, may summon from the list of the jurors selected by the proper officers for the year, a jury of twelve persons to inquire into the supposed insanity, and must give immediate notice thereof to the prosecuting attorney, or other counsel for the people.

§ 348.
If reason to suppose defendant insane, jury to inquire into it; how and by whom ordered.

39. The prosecuting attorney must attend the inquisition, and may produce witnesses before the jury, for which purpose he may issue process in the same manner as for witnesses to attend before the grand jury, and disobedience thereto may be punished in like manner as disobedience to process issued by the court.

§ 349.
Prosecuting attorney, duty of, upon inquisition.

40. A certificate of the inquisition must be signed by the jurors and the proper officer, and filed with the clerk of the court in which the conviction was had.

§ 350.
Inquisition, how certified and filed.

41. If it is found by the inquisition that the defendant is sane, the proper officer must execute the judgment; but if it is found that he is insane, such officer must suspend the execution of the judgment until he receives a warrant from the governor, or from the judge of the court by which the judgment was rendered, directing the execution of the judgment. If the inquisition finds that the de-

§ 351.
Proceedings upon finding of the jury.

defendant is insane, the officer must immediately transmit it to the governor, who may, when the defendant becomes sane, issue a warrant, appointing a day for the execution of the judgment.

42. Any person licensed as herein provided, who shall knowingly give, sell or otherwise dispose of any intoxicating drink to an Indian, insane or idiotic person, or to any minor, apprentice or employe under twenty-one years of age, without the consent of the parents, guardians or employer thereof, shall be held and deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than ten nor more than one hundred dollars, and shall also be liable to pay all costs of prosecution.

Act of 1882,
p. 32, § 5.
Penalty for
selling to In-
dians, minors,
etc.

VERMONT.

SUPERVISION AND CARE OF INSANE.

1. Regulations for admission, physicians' certificate.
2. Appeal from decision of physicians, proceedings.
3. Patient not to be received pending appeal.
4. Harmless insane not to be confined in asylum.
5. Physicians' certificate, date of; certificate of judge.
6. Personal examination by physicians, penalty for neglect.
7. Admission on order of court.
8. Patients, treatment, discharge.
9. Illegal admission, penalty.
10. Blank certificate supplied to judge.
11. "Insane person" defined.
12. Supervisors of the insane, election of, qualifications.
13. Duties of supervisors.
14. Reports of supervisors.
15. Powers of supervisors.
16. Cases referred to supervisors, proceedings.
17. Petition of friends, duty of supervisor.
18. Investigation of insanity, discharge.
19. Recusant witnesses, penalty.
20. Refusal to obey order of discharge.
21. Compensation of supervisors.
22. Reports of officers, when filed.
23. Indigent insane, when supported by state.
24. Investigation of fact of indigence.
25. Duty of state's attorney in such cases.
26. Transfer to Vermont asylum.
27. State's attorney, compensation.
28. Removal to asylum, proceedings.
29. Expenses of investigation and removal.
30. Support of discharged insane, to whom chargeable.
31. Support in asylum, when chargeable to state.
32. Indigent insane, support of, power of selectmen.
33. Support of indigent insane by place of settlement.

34. Estate of insane person, how far chargeable.
35. Proceedings to ascertain ability of such estate.
36. Proceedings, regulation by town.
37. Investigation by selectmen of town.
38. Indigent insane, contract for support of, statement of selectmen.
39. Who entitled to benefit of state appropriations.
40. Indigent insane, when returned to county.
41. State appropriation, amount, when and how drawn.
42. Statements of trustees before receiving appropriations.
43. Warrant issued on receipt of statement.
44. Neglect to furnish statements, penalty.
45. Guardians for insane, appointment.
46. Investigation for appointment.
47. Proceedings at the hearing.
48. Expenses of defense, how borne.
49. Support and custody of insane wife.
50. Guardian, powers and duties.
51. Guardian, pendente lite.
52. Guardian, when removed.
53. Discharge of guardian.
54. Commission for discharge.
55. Duties of justice.
56. Discharge of guardian by justice.
57. Appeal from decision of justice.
58. Trial of appeal.
59. Result certified to probate court.
60. Sureties of ward, liability on bond.
61. Restraint by guardians.
62. Restraint by selectmen.
63. Restraint of indigent insane.
64. Penalty for neglect by guardian.
65. Guardian, appointment.
66. Proceedings for appointment.
67. Decision of court on question of indigence conclusive.
68. Temporary restraint by selectmen.

CRIMINAL INSANE.

69. Insane not indicted, commitment.
70. Acquittal on ground of insanity, proceedings.
71. Discipline for insane in state prison.

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| <p>72. Criminal insane, discharge.
 73. Discharge from Brattleboro asylum.
 74. Indigent insane criminals, witnesses in behalf of.
 75. Proceedings for discharge.
 76. Discharge by court.
 77. Costs of proceedings, how paid.
 78. Term of commitment, when altered.
 79. Fees of witnesses.</p> | <p>80. Habeas corpus allowed.
 81. Insane prisoners, transferred to Brattleboro asylum.
 82. On recovery, to be remanded.
 83. Escape from asylum, penalty.
 84. Confinement of prisoners in asylum, when to continue.
 85. Legal settlement, proceedings to ascertain.</p> |
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1. No person, except as hereinafter provided, shall be admitted to, or detained in an insane asylum, as a patient or inmate, except upon the certificate of such person's insanity, stating their reasons for adjudging such person insane, made by two physicians of unquestioned integrity and skill residing in the probate district in which such insane person resides, or, if such insane person is not a resident of the state, in the probate district in which the asylum is situated; or if such insane person is a convict in the state prison or house of correction, such physicians may be residents of the probate district in which such place of confinement is situated. And the two physicians making such certificate shall not be members of the same firm and neither shall be an officer of an insane asylum in this state.

2. The next friend or relative of a person whose insanity is certified to as above provided may appeal from the decision of the physicians so certifying him to be insane to the supervisors of the insane, which appeal shall be noted on the certificate. The supervisors shall, when such appeal is taken, forthwith examine the case, and if in their opinion there was not sufficient ground for making such certificate, they shall avoid the certificate, otherwise they shall endorse their approval upon it. Such examination by the supervisors shall be had in the town where the appellant resides.

3. When the next friend or relative of such person takes an appeal as above provided, he shall not be received in an insane asylum while the appeal is pending before the supervisors. And a trustee or other officer or employe of an insane asylum who receives or detains a person in such asylum whose insanity is not attested by a legal certificate which has not been appealed from, or by

Rev. Laws of
1880, § 2906,
as amended
1882, No. 48,
§ 1.
Regulations
for admission.

Ibid § 2.
Appeal from
certificate of
physicians.

Duty of super-
visors on ap-
peal.

Ibid § 3.
Not to be re-
ceived while
appeal is
pending.

a certificate duly approved by the supervisors on appeal, shall be imprisoned in the state prison not more than three years.

4. Idiots and persons non compos, who are not dangerous, shall not be confined in an asylum for the insane. Ibid § 4. Idiots not to be admitted. And if any such persons are so confined the supervisors of the insane shall cause them to be discharged.

5. Such certificate shall be made not more than ten days previous to the admission of such insane person to the asylum, and, with a certificate of the judge of probate of the district in which the physicians reside, that such physicians are of unquestioned integrity and skill in their profession, shall be presented to the proper officer of the asylum at the time such insane person is presented for admission. § 2907. When to be made: certificate of judge of probate.

6. The certificate of the physicians shall be given only after a careful examination of the supposed insane person made not more than five days previous to making the certificate; and a physician who signs a certificate without making such previous examination, shall, if the person is admitted to an asylum upon the certificate, be fined not less than fifty dollars, nor more than one hundred dollars. § 2908. Physicians to certify only upon examination.

7. A person may be received into an asylum without a certificate upon the order or sentence of the supreme or county court, upon the presentation of a certified copy of the order or sentence. § 2909. Admission on order or sentence of court.

8. A person admitted to an asylum agreeably to the provisions of this chapter shall be deemed insane and shall be subject to the control and sanitary treatment of the trustees of the asylum, at the asylum, until sufficiently sane to warrant his release, or until removed by his friends or guardians, or otherwise discharged. § 2910. Patients subject to control and treatment.

9. A trustee or other officer or employe of an insane asylum who admits or detains a person in an asylum contrary to the provisions of this chapter shall be imprisoned in the state prison not more than three years. § 2911. Penalty for illegal admission or detention.

10. The secretary of state shall prepare and have printed and furnish to each probate judge blank certificates for the use of such judges and physicians in carrying out the provisions of this chapter. § 2912. Blank certificates.

11. The words "insane person" shall include every idiot,
§ 7. Definition. non compos, lunatic and distracted person.

12. The general assembly shall elect biennially three super-
§ 2897. visors of the insane who shall hold their offices for
Supervisors. two years commencing on the first day of the next
 December; and the governor may fill any vacancy in the
 board during said term. Two of said supervisors shall be
 physicians, and none of them shall be a trustee, superintend-
 ent, employe, or other officer of an insane asylum in the state.

13. The supervisors shall visit every asylum for the insane
§ 2898. in the state as often as occasion requires, and one of
Duties in gen-eral. the board as often as once a month, shall examine into
 the condition of said asylums, the management and treatment of
 the patients therein, their physical and mental condition and
 medical treatment; hear the grievances of the patients apart
 from the officers and keepers and investigate the cases that in
 their judgment require special investigation, and particularly
 shall ascertain whether persons are confined in any asylum
 who ought to be discharged, and shall make such orders
 therein as each case requires.

14. The supervisors shall make report biennially to the gov-
§ 2899. ernor and the general assembly of their doings, the
Report. conditions of the asylums and patients therein, their
 physical and medical treatment and the discipline thereof, and
 of such matters as they deem advisable.

15. The supervisors may administer oaths, summon wit-
§ 2900. nesses before them in any case under investigation,
Powers. and discharge by their orders, in writing, any per-
 son confined as a patient in any asylum for the insane whom they
 find on investigation to be wrongfully confined or whom they find
 so far sane as to warrant the discharge. But convicts sent to an
 asylum from the state prisons or house of correction who are
 found sane before the expiration of their sentence, shall not
 be discharged, but the supervisors shall order them returned
 to the prison or house of correction. In no case shall the su-
 pervisors order the discharge of a patient without giving the
 superintendent of the asylum and opportunity to be heard.

16. The governor may refer the case of any patient in the
§ 2901. asylums for the insane to the supervisors for their
Cases refer- red by the governor. investigation. And the supervisors shall investigate
 such cases and by their orders grant such relief as

each case requires; but if they have not the power to grant the necessary relief, they shall, if the patient is one of the insane poor of the state, at the expense of the state cause such proceedings to be commenced in court as are required to obtain the necessary relief and promote the ends of justice and humanity.

17. The friends or relatives of a patient in an asylum for the insane may apply to the supervisors by petition or otherwise to inquire into the treatment and confinement of such patient and the supervisors shall take such action upon such application as it requires.

§ 202.
Applications
of friends or
relatives of
patients.

18. If in their judgment an investigation is necessary they shall appoint a time and place for hearing and give such friends or relatives and the superintendent of the asylum reasonable notice thereof, and at the time appointed shall hear such friends or relatives and superintendent and make such lawful order as the case requires. But in no case shall the supervisors order a discharge of a patient without giving the superintendent an opportunity to be heard.

§ 203.
Investigations.

19. If a person legally summoned as a witness before the supervisors in behalf of the state, or summoned by other parties with a tender of his fees, wilfully or wrongfully refuses to attend or testify, he shall be punished as provided in section 1546 [§ 1661].

§ 204.
Penalty for
disobeying
summons.

20. If a trustee, superintendent, employe, or other officer of an asylum for the insane wilfully and knowingly neglects or refuses to discharge a patient after such patient has become sane or after the supervisors have ordered his discharge such trustee, superintendent, employe, or other officer shall be fined not more than five hundred dollars.

§ 205.
Fine for not
discharging
patients after
recovery or
order.

21. The supervisors of the insane shall receive three dollars a day for services rendered and their official expenses.

§ 4478.
Supervisors
of the insane.

22. It is hereby made the duty of each officer who is required by law to make a report to the general assembly, governor, or to the auditor of accounts, to have the same in readiness and deposited with the secretary of state for printing on or before the fifth day of August, 1882, and biennially thereafter; * * * *

§ 4380.
Certain officers to have
reports ready.

23. Insane persons in any town destitute of the means to support themselves, and having no relatives in the state bound by law to support them, and having no legal settlement in any town in the state, shall be supported by the state at the insane asylum.

§ 2876.
Who are to be supported by state at asylum.

24. The selectmen shall, on the application of the overseer of the poor of such town, ascertain whether such insane person is liable to be supported by the state as aforesaid; and may institute a court of inquiry before the judge of probate of the district in which such town is situated, giving at least ten days' notice thereof to the state's attorney of the county.

§ 2878.
Instituting court of inquiry.

25. Such state's attorney shall investigate the case, and if he finds that such insane person is not liable to be supported by the state as aforesaid, he shall attend such court of inquiry and produce at the expense of the state such witnesses and testimony as he deems advisable for the protection of the rights of the state.

§ 2877.
State's attorney to act for state.

26. If the probate judge finds from the evidence in the case that such insane person is liable to be supported by the state as aforesaid, and the insanity of such person is certified to in writing by two physicians of unquestioned skill and integrity, resident in said probate district, who are duly indorsed by said judge, the judge shall issue an order for the removal of such insane person to the Vermont asylum for the insane, to be there supported.

§ 2878.
Order for removal to asylum.

27. The state's attorney shall be paid for his services by the state five dollars a day and his necessary expenses, his account to be audited and allowed by the auditor of accounts.

§ 2879.
State attorney's pay.

28. The officer or other person appointed by said judge of probate shall transport such insane person to the asylum, and leave with the superintendent, or one of the trustees of the asylum, a copy of such order with his return thereon, and also the certificate of the two physicians as to the insanity of the person, duly indorsed by said judge, which shall be a sufficient warrant for receiving such person into the asylum.

§ 2880.
Order for removal, how executed.

29. The costs and expenses of the examination and removal of an insane person as aforesaid, except the

§ 2881.
Expense of examination.

costs and expenses of the state's attorney, shall be paid by the town instituting the inquiry. tion and removal; how paid.

30. When such person is lawfully discharged from the asylum, the town causing him to be removed thereto shall take charge of and support him as if he had not been removed from the town; and a town neglecting so to do shall pay to a town suffering damage therefrom, such damage, to be recovered in an action on the case. § 2882. Charge and support of person discharged.

31. No patient shall be supported in the asylum entirely at the expense of the state unless he is sent there upon the order of a probate judge, as aforesaid; or from the state prison or house of correction; or upon the order or sentence of the county or supreme court. § 2883. Support in asylum, when at state's expense.

32. The selectmen may make contracts in behalf of their towns, with the proper officers of the Vermont asylum for the insane, for the support of any insane poor belonging to such towns, whom the selectmen think proper to place in the asylum, and may, in behalf of the town, execute proper bonds therefor. § 2884. Selectmen may bind town for support.

33. An insane person having a legal settlement in any town, the annual income of whose estate, with the earnings of his wife and minor children, is not sufficient for the support of such wife and minor children and the support of such insane person, shall be supported by the town at the Vermont asylum for the insane. § 2885. What persons to be supported at asylum by town.

34. Such town may use and control so much of the income of said insane person's estate and property, and the earnings of his wife and minor children, as is in excess of the expense of supporting the wife and minor children. § 2886. Part of insane person's estate may be used.

35. The county court in the county where such insane person has his legal settlement, upon complaint made by his wife, may, on hearing, either upon the appearance or default of such town, order such town to support the insane person at the asylum; and upon such complaint may inquire as to the income of the estate of the insane person, and as to the earnings of his wife and minor children, and their support, and may make necessary orders to carry into effect the provisions of this and the two preceding sections; and may award costs to either party, as justice requires. § 2887. Proceedings in county court on wife's complaint.

36. Towns may, at their annual meetings, make and alter such regulations as they deem expedient for the purpose of securing the benefit of the provisions of this chapter; which regulations may embrace not only town paupers, but other persons destitute of property and entirely dependent upon relatives not bound by law to support them.

§ 2888.
Town may
make regula-
tions as to
insane poor.

37. In cases where towns have not made such regulations, the selectmen, upon application of any friend or relative of an insane person, residing in such town, who is destitute of property, shall make inquiry into the situation of such insane person, and appoint a time and place of hearing, if so requested by such friend or relative; and if, upon inquiry or hearing, they are of opinion that the insane person is entitled to the benefits of this chapter, they shall cause him to be removed to the Vermont asylum for the insane, as herein provided.

§ 2889.
Selectmen's
duty if no
regulations
are made.

38. When the selectmen of a town contract with the trustees of the asylum for the support of an insane poor person, they shall furnish the trustees with a writing, over their signatures, stating whether the insane person for whose support the contract is made is a pauper of said town or a poor person not a pauper of said town; and if not a pauper, the writing shall set forth the circumstances, financial and otherwise, of said person; and if said selectmen claim for such poor person the benefit of the state appropriations for the insane poor, they shall state in said writing under what law the claim is made, and unless the writing shows that the poor person is entitled to share in state appropriations, the trustees shall not draw from the state treasury any money for the benefit of such person. The statement shall be preserved by the trustees for the inspection of any officer of the state.

§ 2890.
Statement re-
quired when
selectmen
contract.

39. No insane poor person shall share in the state appropriations for the insane poor, whose support at the asylum is not contracted for by the selectmen of some town, except insane persons supported entirely by the state.

§ 2891.
Who may
share in state
appropria-
tions.

40. If the expense of supporting a patient at the asylum is not paid when due, the trustees may return such

§ 2892.
Returning pa-

patient to the overseer of the poor of the town from which he came; but no patient shall be so returned until after ten days' notice, from the trustees to such overseer, of the non-payment and of the intention to return the patient.

41. The trustees of the Vermont asylum for the insane may charge three dollars and fifty cents a week for supporting the insane poor of the state at the asylum; and may draw from the treasury of the state, upon the order of the auditor of accounts, annually, in the month of August, for the benefit of each town having insane poor persons confined in the asylum, one dollar a week for each of said insane poor persons, for the time they have been confined there during the year next preceding the month of August, and ten cents a mile by the nearest practicable route from their respective residences to said asylum, as the expenses of transportation.

§ 2893.
Aids for non-payment of expense.

§ 2893.
State appropriations, amount, when and how drawn.

42. Such trustees shall in each year before receiving such appropriations furnish the auditor of accounts a statement in writing, verified by the oath of the superintendent or a trustee of the asylum, giving the name and residence of each patient for whose support the money is to be drawn, the number of weeks for which pay is to be drawn, the amount per week paid by the state, and the total amount required, for each patient; the time the patient has been in the asylum; and where the state only in part supports the patient, what town pays the balance, and whether the patient is a state pauper, a town pauper, or a poor person not a pauper whose support some town has assumed, and what town supports such poor person not a pauper.

§ 2894.
Sworn statement required of trustees.

43. The auditor of accounts shall not draw an order for the money appropriated for the support of the insane poor until such sworn statement has been furnished to him; and he shall print these statements in full in his biennial report.

§ 2895.
Drawing orders; statement to be printed.

44. A trustee or superintendent of the asylum, or a selectman who knowingly violates any of the provisions of sections 2733 and 2737 [§§ 2890, 2894] shall be fined not more than two hundred dollars.

§ 2896.
Penalty for violating provisions.

45. The probate court may appoint guardians of insane persons, including any insane married woman

§ 2436.
When and on

whose appli-
cation guar-
dians for in-
sane ap-
pointed.

whose husband has left the state and abandoned her without making sufficient provision for her support, and of any insane married woman who has real or personal estate, on the application of a relative or friend of such person, or of the overseer of the poor of the town in which such person resides or is chargeable, representing to the court that such person is insane and incapable of taking care of himself, and praying that a guardian be appointed.

46. When application is made for the appointment of a guardian in pursuance of either of the two preceding sections* the court shall fix a time when the application will be considered, and shall cause the applicant to give notice of the application and of the time and place of hearing to the supposed insane person or spendthrift by service thereof at least twelve days before the time set for the hearing, if the person is in the state, and if absent from the state by service of the notice like a writ of summons at least twenty days before the hearing; and if a person other than her husband is sought to be appointed guardian of a married woman, notice as above shall also be given to the husband.

47. The court before making such appointment of guardian shall investigate the case and make decree in the premises as appears just; and if against the person complained of, the decree may be appealed from as provided in this chapter for an appeal from the judgment of justices, during the pendency of which appeal the person so appointed shall act as guardian as though no appeal had been taken.

48. When a guardian is appointed for an insane person, spendthrift, or absconding person, by the probate court, it may allow for the expenses of the ward in defending against the application, such sum out of the ward's estate as appears to be reasonable.

49. The appointment of a guardian of an insane married woman shall not relieve her husband from liability to support her, nor shall it deprive him of the custody of her person so long as he is suitable and competent to have the care of his wife.

§ 2444.
Husband to
support and
have custody
of insane wife
under guar-
dianship.

§ 2440.
Expenses of
resisting ap-
plication, al-
lowed from
ward's estate.

§ 2439.
Hearing; de-
cree; appeal.

§ 2438.
Court to ap-
point hearing;
notice to be
given.

* § 2437 refers to spendthrifts and has been omitted.

50. Guardians of spendthrifts, insane, and absconding persons shall until they are legally discharged have possession and management of the estates of their wards; shall have the care and custody of such members of the families of their wards as are dependent upon them for support, education, or employment, unless they have other guardians; and if the ward is an insane person or spendthrift shall have the care and custody of his person, and shall furnish him suitable employment.

§ 2445.
Extent of
guardian's
control

51. When an action at law or in equity is pending in any court, by or against a person adjudged to be an insane person or spendthrift after the commencement of such action, the guardian of such person may enter or be cited in to prosecute or defend such action in the same manner as is now prescribed in the case of administrators and executors of deceased persons.

§ 2446.
When guardian appointed pending suit by or against ward.

52. The guardian of an insane person, spendthrift, or absconding person may be removed by the probate court, when it appears to the court that the guardianship is no longer necessary.

§ 2502.
Guardian of spendthrift, insane, or absconding person, removal of.

53. If the guardian of a spendthrift or absconding person, or the overseer of the poor of the town where the ward or his wife or children reside, certifies to the probate court, in writing, that a guardian is no longer needed, or if the guardian of an insane person certifies to the probate court, in writing, that his ward is capable of taking care of himself, such certificate may be taken as sufficient evidence of the fact to authorize the court to discharge the guardian.

§ 2503.
May be discharged on overseer's or guardian's certificate.

54. If the guardian of a spendthrift or absconding person, or the overseer of the poor, or if the guardian of an insane person, declines to give such certificate, or if the court, on the production of such certificate, declines to discharge the guardian, the ward may make application to the probate court praying that his guardian be discharged; and if the ward gives a bond, with a condition that he will pay the costs which accrue if he fails in his application, the court shall issue a commission to two justices of the same county requiring them to inquire into the subject of such application.

§ 2504.
Commission to issue to justices, when.

55. The justices shall thereupon give reasonable notice to the guardian and ward of the time and place appointed for hearing such application, by citation or otherwise; and the justices shall, as soon as may be thereafter, report their proceedings and decision, and return the same, with their commission, to the probate court, with a taxation of the costs before them on both sides.

§ 2505.
Justices'
duties.

56. If the decision of the justices is that the ward no longer needs a guardian, the guardian shall be thereupon removed.

§ 2506.
Removal of
guardian.

57. If the report of the justices is adverse to the application of the ward, the ward may appeal to the county court, according to the provisions of law; but no bond shall be required on granting such appeal.

§ 2507.
Ward may
appeal.

58. When the appeal is entered in the county court, that court shall try the same according to the rules of law, and the issue to be tried shall be whether the appellant is an insane person, or a spendthrift, or an absconding person, as the case may be, within the meaning of this chapter; and the trial shall be by jury, unless the parties agree to submit the same to the court.

§ 2508.
Trial in
county court;
issue.

59. The result of the trial shall be certified by the county court to the probate court and said court shall proceed thereon as provided on the report of justices.

§ 2509.
Result to be
certified to
probate court.

60. When the decision of the county court is adverse to the application of the ward it shall return to the probate court a certificate of the taxation of costs in the case; and the sureties of the ward shall be liable for the same on their bond.

§ 2510.
When de-
cision adverse
to ward.

61. It shall be the duty of the legal guardian of any insane person not a pauper, and the duty of the overseer of the poor of the town in which any insane person who is a pauper resides, when such insane person is not placed in an asylum, to keep such insane person under such restraint as may be necessary to prevent his going at large.

Act of 1882.
No. 47, § 1.
Guardian to
keep insane
persons under
restraint.

62. Whenever any insane person not a pauper, who has a legally appointed guardian, shall be found going at large in any town, and when, in the opinion of the selectmen of the town where he is so found, said

Ibid § 2.
Selectmen
to keep in-
sane under
restraint.

person is so deranged as to be an unsafe person to be at large, said selectmen may notify the guardian of such insane person to take charge of him, and restrain him from going at large.

63. Whenever any insane pauper residing in any town in this state shall be found going at large in any town, and when, in the opinion of the selectmen of the town where he is so found, such pauper is so deranged as to be an unsafe person to be at large, said selectmen may notify the overseer of the poor of the town where such insane pauper resides to take charge of him and remove him and restrain him from going at large.

Ibid § 3.
Insane paupers to be restrained.

64. If any guardian or overseer of the poor, after being so notified by the selectmen of a town, shall neglect to restrain such insane person from going at large for the space of six days thereafter, or shall fail to so restrain such person as to prevent his afterward going at large within the limits of such town, he shall be liable to a penalty of twenty-five dollars for each neglect or failure as aforesaid, which may be recovered in an action founded upon the statute, brought in the name and for the benefit of said town.

Ibid § 4.
Penalty for neglect.

65. If any insane person, not a pauper, found going at large in any town shall have no legally appointed guardian, application for the appointment of a guardian over him may be made to the probate court of the district in which such insane person resides, by the selectmen of the town where such insane person is found going at large, in the same manner and to be followed by the same proceedings as are now provided in the case of an application by a relative or friend, or by the overseer of the poor of the town in which such person resides or is chargeable.

Ibid § 5.
Appointment of guardian.

66. When an application is made to the probate court, as provided in the preceding section, the overseer of the poor of the town in which such supposed insane person resides shall receive the same notice of such application, and of the time and place of hearing, as is now required to be given to such supposed insane person; and if said court shall adjudge such person insane, and order that a guardian be appointed over him, and no one accepts and qualifies himself for said trust within twenty days thereafter, the overseer of the poor of such town shall be subject to the

Ibid § 6.
Application to probate court, notice to selectmen.

same duty and liable to the same penalty under the provisions of this act as though such person was an insane pauper.

67. Whenever the probate court, upon the application herein provided for, shall adjudge the person insane, but shall not appoint a guardian over him under the provisions of this act, for the reason that such person is a pauper, and the selectmen making the application shall thereafter proceed against the overseer of the poor of the town where such person resides, under sections three and four of this act, the decision of such court that such person is a pauper shall be conclusive against the overseer in said proceedings.

68. The selectmen giving to the guardian or overseer the notice herein provided for may take such insane person into custody and keep him in such confinement as may be necessary until removed by said guardian or overseer; and all necessary expenses incurred in so doing, after the expiration of the time allowed for his being put under restraint under the first notice, or when such person is taken into custody at any subsequent time, under the provisions of this act, may be recovered by said town of such guardian or overseer, in addition to the penalty herein provided for in the same suit.

69. When a person, held in prison on a charge of having committed an offense, is not indicted by the grand jury by reason of insanity, the grand jury shall so certify to the court, and thereupon, if the discharge or going at large of such insane person is deemed manifestly dangerous to the community, the court may order him committed. fined in the county jail, or in the insane asylum at Brattleboro, or some other suitable place, at his own expense, if he has estate sufficient for that purpose, and if not, at the expense of the state.

70. When a person, tried on an indictment or information for any crime or offense, is acquitted by the jury by reason of insanity, the jury, in giving their verdict of not guilty, shall state that it is given for such cause, and thereupon, if the discharge or going at large of such insane person is considered dangerous to the community, the court may order him, in its discretion, to be confined

Ibid § 7.
Decision of
court conclu-
sive.

Ibid § 8.
Selectmen to
restrain, ex-
penses.

§ 1702.
When person
is not in-
dicted be-
cause insane.

Commitment.

§ 1703.
Acquittal by
reason of
insanity.

in the state prison, or in the insane asylum at Brattleboro, on such terms as the court directs.

71. When a person is sent to the state prison under the provisions of section 1576 [§ 1703] the superintendent shall receive him and put him to such reasonable labor as he is capable of performing and may subject him to such reasonable discipline as his condition and circumstances require; and the expense shall be paid by the state.

§ 4412.
Person com-
mitted under
§ 1703.

72. A person confined under an order of the court, pursuant to section one thousand seven hundred and two, and one thousand seven hundred and three,* of the Revised Laws, shall be discharged from confinement only by order of the county court for the county in which the order for confinement was made, upon petition therefor, which petition shall be returnable to a stated term of such court, and shall be served upon the state's attorney for that county twelve days or more before the beginning of the term.

Act of 1882,
No. 49, § 1.
Criminal in-
sane, dis-
charge of by
court on peti-
tion.

73. In case such person is confined in the insane asylum at Brattleboro and has no estate, such petition may be brought in his behalf by the supervisors of the insane at the expense of the state, in which case no recognizance for costs shall be required.

Ibid § 2.
Discharge
from Brattle-
boro.

74. If it appears to such court that such person is from poverty unable to procure the attendance of witnesses in his behalf, such court may order as many of such witnesses to be subpoenaed by the state's attorney at the expense of the state, as it judges necessary to secure to the petitioner an impartial hearing.

Ibid § 3.
Indigent crim-
inals, wit-
nesses.

75. Such court may issue an order which shall be directed to and executed by any sheriff or constable in the state, commanding such officer to bring such person before the court for hearing; and the officer executing such order shall deliver an attested copy thereof to the custodian of such person who shall thereupon deliver such person into the custody of such officer.

Ibid § 4.
Court to order
appearance
for hearing.

Order served
on custodian.

76. If, upon hearing, it appears to the court that such person has become sane, and the discharge or going at large of such person is not considered by the court dangerous to the community, the court shall order the

Ibid § 5.
Power of
court to dis-
charge.

* See pl. 69, 70, supra.

discharge of such person from confinement; otherwise the petition shall be dismissed, and such person, if before the court, shall be recommitted to the place of confinement from which he was brought.

77. If upon hearing it appears that such person has sufficient estate the court may, in its discretion, upon dis-
Ibid § 6.
Costs to be
awarded, when. missing such petition, award costs against such estate and issue execution therefor.

78. When a person acquitted of any crime or offense because of his insanity is confined by order of the court,
Ibid § 7.
Term of com-
mitment may be
altered, peti-
tion. such court may thereafter alter the terms on which such person is confined upon petition therefor, returnable to a stated term of such court, and served upon the state's attorney for the county in which the order was made, twelve days or more before the beginning of the term.

79. The fees of witnesses produced by a state's attorney in proceedings under this act shall be paid in the
Ibid § 8.
Fees of wit-
nesses. manner provided for the payment of witnesses' fees in state causes.

80. This act shall not affect the right of a person named in section one to sue out a writ of habeas corpus to
Ibid § 9.
Right of habeas
corpus not to
be affected. obtain his liberty.

81. When a person confined in the house of correction or state prison for a specified time or for life becomes
Ibid § 4407.
Insane pris-
oners to be
removed to
asylum. insane, and certificates to that effect are made as provided in sections 2749, 2750 and 2751 [§§ 2906, 2907, 2908],* the directors may cause such prisoner to be removed to the insane asylum at Brattleboro,† on such terms as they deem just, there to remain until he becomes cured of his insanity, or until the expiration of the term for which he was committed to the prison or house of correction.

82. If before the expiration of such term such person be-
§ 4408.
When to be
returned. comes sane he shall be returned to the institution to which he was originally committed and confined therein for the remainder of said term.

83. An insane convict who is removed to the insane asylum and who becomes sane, and thereafter and before
§ 4409.
Absconding
after becoming
sane, penalty. the expiration of the term of confinement to which

* See pl. 1-3, supra. † This is not a state institution.

he was originally committed, absconds from the asylum or from a person having him in charge, shall be subject to the same penalty as prisoners escaping from the state prison or house of correction.

84. A prisoner who at the expiration of his term of confinement remains insane, may be removed to the insane asylum at Brattleboro agreeably to the provisions of this chapter and may be there kept, or if already there, may remain, at the expense of the state, at the same price allowed for insane paupers of towns, until his legal settlement is ascertained or until some relative is ordered by the proper court to furnish his maintenance.

§ 4410.
When insane
at end of
sentence.

85. For the purpose of ascertaining such settlement or proceeding against such relatives, the overseer of a town where such prisoner has ever dwelt or stayed may proceed in court as if such prisoner on his discharge had come to reside in such town.

§ 4411.
Settlement;
proceedings
to ascertain.

VIRGINIA.

GOVERNMENT OF ASYLUMS.

1. Asylums established; locations, titles, boards of directors.
2. Central asylum, for negroes; corporate powers of board, expenses of asylum, how paid.
3. Asylums, boards of directors, number, term of office.
4. Directors, appointment, vacancies.
5. President of board.
6. Organization of board.
7. Fiscal year, accounts.
8. Annual reports of board, statistics.
9. Directors not to be interested in contracts.
10. Funds of asylums, disposition of.
11. Commissioners to select site for central asylum.
12. Property appropriated for asylums, value how ascertained.
29. Escape, arrest and re-commitment.
30. Discharge on recovery.
31. Place of settlement.
32. Expenses of transfer and support, how borne.
33. Commitment by justice, certificate of property and income.
34. Insane confined in jail, contract for support out of jail.
35. Duty of court in such cases.
36. Committing officer, compensation.
37. Compensation, when forfeited.
38. Support and bail, allowance for.
39. Apportionment of expenses.
40. Investigation of insanity, appointment of committee.
41. Non-resident insane, committee, when appointed.
42. Jurisdiction in appointment of committee.

ADMISSION AND DISCHARGE.

13. Applications for admission, when granted, bond.
14. Investigation of insanity, proceedings before justice.
15. Delivery to friends, bond; order of commitment.
16. Record of proceedings before justice to accompany order.
17. Duty of committing officer, temporary confinement in jail.
18. Transfer to asylum.
19. Proceedings on admission.
20. Patient is remanded to jail pending admission.
21. Non-residents to be returned to friends or authorities, temporary confinement.
22. Non-residents may be received in case of vacancies.
23. Transfer to foreign asylums, power of governor.
24. Expenses, how borne.
25. Insane of naval service to give place to resident.
26. Discharge to custody of friends, criminals excepted.
27. Commitment to asylum.
28. Transfer to asylum by surety.
43. Bond of committee.
44. Duties of committee.
45. Support of insane.
46. Support of insane infants and married women.
47. Claim for support, when released.
48. Claim for support, how recovered.
49. Neglect of duty, penalty.
50. "Lunatic" defined.
51. Transportation of inmates, arrangements for.
52. Contracts for transportation may be renewed.

CRIMINAL INSANE.

53. When not indicted, proceedings.
54. Insane person not to be tried for crime.
55. Investigation of insanity.
56. Inquiry into sanity, after conviction.
57. Proceedings on restoration to sanity.
58. Trial to proceed or sentence to be executed.
59. Fact of insanity to be stated in verdict of acquittal.
60. Notice to court on recovery.
61. Committee, appointment.
62. Insane criminals, transfer to asylum.

1. Each lunatic asylum established in this state shall be under the management of the board of directors. Code of 1873, ch. 82, § 1. Management and location of asylums. There shall be three asylums for the insane: the first to be located as at present at Williamsburg, under the name of the eastern lunatic asylum; the second to be located as at present at Staunton, under the name of the western lunatic asylum; and the third to be located temporarily at Howard's grove, near the city of Richmond, under the name of the central lunatic asylum.

2. The said central lunatic asylum shall be for the reception and treatment of colored persons of unsound mind, and the board of directors are hereby constituted and appointed, with their successors, a body politic and corporate, to have perpetual succession; may sue and be sued, and may and shall have and use a common seal, and are authorized to take any estate, real or personal, given or to be given to said hospital, or to said directors for the use thereof, so as the annual income of such donations shall not exceed the sum of three thousand dollars; and shall be invested with all the rights, powers and privileges conferred, and made subject to the rules, regulations and restrictions imposed by this chapter. The expenses of said asylum shall be provided for and paid in the same manner that the expenses of similar institutions in the commonwealth are now provided and paid. Ibid § 2. Central asylum for colored lunatics.

3. The boards of directors of the central, eastern, and western lunatic asylums shall consist of eleven members each, the term of office shall be for three years, commencing on the first day of March, eighteen hundred and eighty-two, and continue until their successors are appointed. Six directors shall constitute a court for the transaction of business. Ibid § 3, as amended 1882, ch. 133, § 1. Number of directors for each asylum; term of office; quorum.

4. The said directors shall be appointed and commissioned by the governor, who shall also fill all vacancies that may occur. Ibid § 4. Directors, how appointed.

5. Each board shall annually choose one of their body to be president, and in his absence a president pro tempore. Ibid § 5. President of the board.

6. Said boards of directors shall assemble upon the first day of March, eighteen hundred and eighty-two, or as Ibid § 6,

as amended
1882, ch. 103,
§ 1.
Assembling,
organization
and election
of sup't.

soon thereafter as possible, at the asylums for which they are appointed respectively, and shall elect superintendents, who shall be physicians, and may appoint executive committees and officers, nurses, and other attendants for their asylums, respectively, and prescribe their compensation, and generally reorganize said asylums, as to said boards may seem right and proper.

7. The fiscal year of each asylum shall end on the thirtieth day of September annually, and the directors and treasurer shall settle their accounts so as to conform thereto.

Ibid § 10.
Fiscal year
of each
asylum.

8. The board of each asylum shall, annually, before the first day of November, report to the governor, for information of the general assembly, the condition of the asylum, and an account of all sums received and disbursed, with a list of the patients, designated by name or otherwise, in the asylum during the preceding year, showing their age and sex, place of residence and civil condition, the deaths and discharges, and condition when discharged, and any statistics and remarks as to the management of the insane and the subject of insanity which in their judgment may be useful.

Ibid § 11.
Annual reports
of directors to
governor;
what to be
reported.

9. No director of a lunatic asylum shall be personally interested in any contract in relation to the said asylum, or its support.

Ibid § 56.

10. The directors of the western, eastern, and central lunatic asylums, and of any asylum or asylums, that may hereafter be established in this state, shall deposit to their credit in one or more of the banks in this state, all moneys received by appropriation of the general assembly, or from any other source—first taking from such bank or banks, bonds with good security, in a penalty double the amount likely to be deposited in such bank or banks within twelve months, payable to the commonwealth of Virginia, and conditioned for the preservation of the money that may be deposited, and the payment and disbursement thereof according to law; and it shall not be lawful for the cashier or other officer of said bank or banks to pay out said money so deposited upon the order, draft or check of the directors making such deposit,

Act of 1876,
ch. 7, § 1.
All asylums
shall deposit
to their credit
in one or more
banks of the
state all
money appro-
priated by the
general as-
sembly.

How money so
deposited can
be drawn, etc.

except it be drawn and signed in such form as shall be prescribed to said bank or banks by the board of directors of such asylum; and it shall not be lawful for the said board of directors to give such order, draft or check, except for such amounts and at such times as may be necessary to meet the expenditures for the said asylums. And the board shall transmit to the auditor of public accounts, quarterly, a report in detail of the manner in which such funds have been disbursed. And the boards of directors of the said asylums shall dis-
 Office of treasurer dis-
 pense with the office of treasurer for their respective
 asylums. pensed with.

11. Whereas, the lease of the central lunatic asylum for the colored insane of the state, will expire on the thirty-first day of December, eighteen hundred and seventy-nine, and it is deemed advisable that the general assembly at its present session should take steps for locating and constructing a permanent asylum for that class of insane persons; therefore,

Resolved (the house of delegates concurring) that [nine persons named] be and they are hereby constituted a commission, any five of whom may act, whose duty it shall be forthwith to inquire for and ascertain the most eligible site for the location and construction of such asylum, having reference in their selection to any inducements that may be offered in the way of donations of grounds, buildings, or otherwise, and to report the result of their examinations and inquiries, with the facts tending to show the propriety thereof, to this general assembly on or before the first day of March next.

12. If the president and directors of a company incorporated for work of internal improvement, the court of a county, or the council of a town, the directors of the deaf and dumb and blind institution, of the western lunatic asylum, of the eastern lunatic asylum, and central lunatic asylum, cannot agree on the terms of purchase with those entitled to lands wanted for the purposes of the company, county, town, institution, or asylums aforesaid, five disinterested freeholders shall be appointed by the court of the county or corporation in which the land, or the greater part thereof, shall lie (any three

Act of 1877,
ch. 53.
Preamble.

Commission-
ers to select
site for cen-
tral lunatic
asylum.

To make re-
port to the
general as-
sembly.

Code of 1873,
ch. 56, § 8,
as amended
1879, ch. 61,
§ 1.
Arbitrators
authorized to
ascertain
value of
property.

of whom may act), for the purpose of ascertaining a just compensation for such land.

13. On an application on behalf of a person for his admission into an asylum, the examining board, if unanimous that he ought to be admitted, may receive him as a patient therein, if the person making the application will execute and deliver an obligation, with sufficient security (payable to the directors of such asylum by their corporate name aforesaid), for the payment of such sums of money as may be agreed on between them for the maintenance and cure of such lunatic while in the asylum, and for the expenses of his removal thereto or therefrom, when necessary.

14. Any justice who shall suspect any person in his county or corporation to be a lunatic, shall issue his warrant ordering such person to be brought before him. He and two other justices shall inquire whether such person be a lunatic, and for that purpose summon his physician (if any), and any other witnesses.

In addition to any other questions, they shall propound so many of the following as may be applicable to the case:

- (1) What is the patient's age, and where born?
- (2) Is he married; if so, how many children has he?
- (3) What are his habits, occupation, and reputed property?
- (4) How long since indications of insanity appeared?
- (5) What were they?
- (6) Does the disease appear to increase?
- (7) Are there periodical exacerbations, any lucid intervals, and of what duration?
- (8) Is his derangement evinced on one or on several subjects; what are they?
- (9) What is the supposed cause of his disease?
- (10) What change is there in his bodily condition since the attack?
- (11) Has there been a former attack; where, and of what duration?
- (12) Has he shown any disposition to commit violence to himself or others?
- (13) Whether any, and what restraint, has been imposed on him?
- (14) If any, what connections of his have been insane; were

Ch. 82, § 13.
How application for admission decided on.

Ibid § 14,
as amended
1874, ch. 26,
§ 1.
Proceedings
before justices to ascertain insanity.

his parents or grandparents blood relations; if so, in what degree?

(15) Has he had any bodily disease, from suppression of evacuations, eruptions, sores, injuries, or the like, and what is its history?

(16) What curative means have been pursued, and their effects; and especially if depleting remedies, and to what extent, have been used?

(17) How many attacks of insanity, and duration of each?

(18) Date of first attack?

(19) Duration of present attack?

(20) Present condition of bodily health?

(21) Epileptic, paralytic, or addicted to masturbation?

(22) Noisy, filthy, quarrelsome, destructive?

15. If the said justices decide that the person is a lunatic, and ought to be confined in an asylum, and ascertain that he is a citizen of this state, then, unless some person (to whom the justices in their discretion may deliver such lunatic) will give bond, with sufficient security, to be approved by said justices, payable to the commonwealth, with condition to restrain and take proper care of such lunatic, until the cause of confinement shall cease, or the lunatic is delivered to the sheriff of the county, or sergeant of the corporation, to be proceeded with according to law, the said justices shall order him to be removed to the nearest asylum, and received, if there be room therein, and if not to the other.

*Ibid § 15.
Lunatic may be delivered to friends for restraint, under bond, or be ordered to asylum.*

16. The interrogatories to the witnesses, and the answers thereto, shall be in writing, and, together with a written statement by the justices of any matter known to them as to the fact of insanity, shall be transmitted by them with the order.

*Ibid § 16.
What to be done with proceedings before justice.*

17. The sheriff, or other officer to whom such order of the justices is directed, shall immediately ascertain, by written inquiry of the superintendent of the nearest appropriate asylum, whether there is a vacancy in such asylum, and if there be none, he shall make a similar inquiry of the other superintendents. The sheriff or other officer presenting an application for the admission of an insane person in his custody,

*Ibid § 17,
as amended 1874, ch. 28, § 1.
Officer's duty to know if there is a vacancy in the asylums, if not, to keep lunatic in the jail of the county.*

shall forward therewith a copy of the interrogatories and answers, as taken by the examining magistrates. Until it is ascertained that there is a vacancy, the patient shall be kept in the jail of the county or corporation.

18. Such officer shall, as soon as he is informed that there is a vacancy, carry the lunatic to the proper asylum.

*Ibid § 18.
Lunatic conveyed to
asylum.*

19. When such patient arrives at the asylum, the board of directors shall be assembled as soon as may be, and, if they concur in opinion with the justices, shall receive and register him as a patient.

*Ibid § 19.
How patient
is examined
and admitted
in asylum.*

20. If they refuse to receive the lunatic, the officer in whose custody he may be, shall confine him in the jail of the county or corporation in which he was examined, until lawfully discharged or removed therefrom.

*Ibid § 20.
What is done
with lunatic
not received.*

21. If it appear to the justices that the person examined by them is a lunatic and a non-resident of the state, he shall be committed to jail; and if any non-resident be received into an asylum under such order, or be committed to jail, the board in the one case, and the court to whose jail he may have been committed in the other, shall, as soon as practicable, cause him to be returned to his friends, or to the proper authorities of the state from which he came. But if the justices cannot find out of what state a lunatic is a resident, and shall so certify, the lunatic may be received in the nearest asylum, if there be room therein; and if not, in the other; to be kept there until information is received as to his residence.

*Ibid § 21.
When non-
residents
shall not be
received.*

22. No non-resident lunatic shall be admitted or retained in either asylum, under any contract with the board, except when there is a vacancy therein not applied for on behalf of any person residing in the state.

*Ibid § 22.
Non-resident
lunatics, how
disposed of.*

When so admitted, the board may at any time discharge him and require his friends to take charge of him or send him back to his home, and shall do so whenever it may be necessary in order to make room for a person residing in the state.

23. The governor is hereby authorized and empowered to cause insane persons, not now in either of the state lunatic asylums, to be taken to and placed and kept in any such asylums beyond the limits of the state

*Ibid § 23.
Insane not
confined in
asylums may
be provided
for by gover-*

as he may select, and to make all necessary and proper arrangements in regard to them, their support and maintenance, with the persons having charge of such asylums.

nor in asylums beyond the state.

24. The expense of removing, supporting and maintaining such insane persons, to and in the asylums in which they may be placed, shall be paid out of the state treasury, upon the order of the governor; but in cases where the insane person shall have any estate or effects, the same shall be applied to the defraying of such expenses so far as they will go, or so far as may be necessary.

Ibid § 24. Expense thereof, how defrayed.

25. Insane persons of the naval service of the United States who may be sent to either asylum by the secretary of the navy, under thirtieth section of the act of congress, approved August the third, eighteen hundred and forty-eight, may be received in such asylum; but when it shall become necessary, for the purpose of admitting therein insane persons who are citizens of this state, the board shall cause such insane persons of the naval service or marine corps, or so many as may be necessary, to be removed from the asylum and restored to the care of the secretary of the navy.

Ibid § 25. As to insane persons of the naval service of U. S.

26. Except in the case of a person charged with crime and subject to be tried therefor, or convicted of crime and subject to be punished therefor, when in a condition to be so tried or punished, the board of any asylum, or the court of any county or corporation, may deliver any lunatic confined in such asylum, or the jail of such county or corporation, to any friend who will give bond with security, with the condition mentioned in the fifteenth section of this chapter, and where a lunatic, except as aforesaid, is deemed by the superintendent of an asylum both harmless and incurable, the board may deliver him without such bond to any friend who is willing, and in the opinion of the board able, to take care of him.

Ibid § 28. When persons may be discharged from asylums.

27. If the person giving any bond mentioned in the preceding or the fifteenth section of this chapter, or his representative, shall deliver the lunatic therein mentioned to the sheriff of the county or sergeant of the corporation, according to the condition of the

Ibid § 29. When, and how he may be re-examined for lunacy.

bond, such sheriff or sergeant shall carry the lunatic before a justice of his county or corporation, and the same proceedings shall be thereupon had as in the case of a person brought before a justice under his warrant under the fourteenth section.

28. If such person, or his representative, shall desire to carry the lunatic to an asylum, he shall proceed in the manner in which the sheriff or sergeant, to whom a lunatic is delivered under the preceding section, is thereby required to proceed, and shall have the same powers, perform the same duties and receive the same compensation with those of a sheriff or sergeant in such case; and the same course shall be pursued when the lunatic arrives at the asylum as if he had been carried there by a sheriff or other officer as aforesaid.

29. If any lunatic confined in either asylum shall escape, the president of the board, or, if required by any person to do so, any justice of the county where such lunatic may be, shall issue his warrant to the sheriff of such county to arrest and carry him back to the asylum, which warrant the sheriff shall forthwith execute, and may execute it in any part of the commonwealth.

30. When any other person confined in an asylum or jail as a lunatic shall be restored to sanity, the board or the court, as the case may be, shall discharge him and give him a certificate thereof.

31. Each patient in any asylum shall be deemed an inhabitant of the county or corporation in which he had a legal settlement at the time of his removal to the asylum.

32. If not previously paid by individuals, the expense of removing any lunatic to and from any asylum, and of the maintenance and care of him therein, shall be paid out of the treasury of the asylum, and the expense of the maintenance and care of any lunatic in any jail shall be paid out of the public treasury; such expenses in either case to be refunded in the manner hereinafter provided.

33. The justices or court who shall order a lunatic to be confined in an asylum, shall cause a certificate of his estate, or, if the person be a married woman, or infant who is not an orphan, of the estate of the husband or parent, and also of the probable annual profits of such estate, to be sent to the directors of the asylum, and to the next court

Ibid § 30.
Same.

Ibid § 31.
How lunatic
escaping is
arrested and
again con-
fined.

Ibid § 33.
Same.

Ibid § 35.
How expenses
of lunatics are
to be paid.

Ibid § 36.
Same.

for the county or corporation of which the lunatic is an inhabitant.

34. When any person shall be confined in any jail as a lunatic, the jailer shall certify the fact to the court of the county or corporation at their next ensuing term. The court shall thereupon cause such person to be examined by two disinterested persons, who shall, as soon as may be, report the result thereof. The court shall then make such provision for the maintenance and care of him as his situation may require.

*Ibid § 37.
Same.*

35. The court in whose jail any lunatic may be confined, shall, when practicable and proper, contract with some fit person for the maintenance and care of such lunatic out of the jail, and make allowance therefor, not exceeding what is authorized for a lunatic confined in jail; the expenses, services and allowances mentioned in this and the two preceding sections, shall be certified to the auditor of public accounts for payment.

*Ibid § 38.
Same.*

36. Each officer shall be allowed eight cents per mile, besides tolls and ferriages, for himself, and the same for one guard, both going to and returning from the asylum to carry a lunatic, and the same sum for the lunatic going and also returning, when he is carried from an asylum by a properly authorized officer; but no officer shall be allowed for any person as a guard for one lunatic, without a warrant from the examining justices authorizing said guard, nor then for more than one person. If in any case the charges allowed in this section shall not be sufficient to defray the actual expenses necessarily incurred in the performance of the services, the county or corporation court of the county or corporation to which the officer belongs may, upon proof of that fact, allow a sum sufficient to cover such deficiency, which shall be paid in like manner as the legal charges.

*Ibid § 39.
Allowances to
officers, and
guard having
care of lu-
natics.*

37. No officer shall be allowed anything for carrying a lunatic to or from any asylum, either for himself, his guard, or the lunatic, unless he shall have previously ascertained that there was a vacancy therein.

*Ibid § 40.
Same.*

38. The allowance to the jailer for the maintenance and care of a lunatic shall be fixed by the court in whose jail he is confined. No more shall be allowed for

*Ibid § 41.
Same.*

his clothing than thirty dollars a year. No such allowance shall be audited and paid unless it appears in the certificate of it that the jailer proved to the court that, immediately after the commitment of the lunatic, and at least once in every two months thereafter, application was made to the boards of directors of both asylums for admission, and that such application was refused for want of room, or that such applications were not continued because the admission of the lunatic had been refused for some other cause than the want of room.

39. When the same attendant, nurse, or physician is employed to attend the sick in any jail, as well lunatics as others, the court shall apportion the allowance therefor, so as to ascertain how much is to be allowed for each lunatic.

40. If a person residing in this state, not so found, be suspected to be insane, the court of the county or corporation of which such person is an inhabitant, shall, on the application of any party interested, proceed to examine into his state of mind, and being satisfied that he is insane, shall appoint a committee of him.

41. If a person residing out of the state, but having property therein, be suspected to be insane, the court of the county or corporation wherein the said property or greater part of it is, shall, upon like application and being satisfied that he is insane, appoint a committee of him.

42. The circuit courts shall have concurrent jurisdiction with the county and corporation courts, respectively, in the appointments of committees.

43. The court making such appointment shall take from such committee a bond in such penalty as it shall deem sufficient; and in the case of a lunatic sent to an asylum or committed to jail, the clerk of the court shall, within one month thereafter, transmit to the first auditor a certified copy of such bond, and of any order of the court in relation to such lunatic or his estate; and in one month after such lunatic may be admitted into an asylum, the clerk shall send copies of the said bond and orders to the board of directors thereof. If any person appointed committee of a lunatic refuse the trust, or fail within two months from the date of his appointment, if in a county or corporation court, or at the term

succeeding his appointment, if in a circuit court, to give bond as aforesaid, the court, on motion of any party interested, may appoint some other person committee, taking from such committee bond as aforesaid, or shall commit the estate of the lunatic to the sheriff of the county or sergeant of the corporation, who shall be the committee, and he and the sureties in his official bond bound for the faithful performance of the trust.

44. The committee of an insane person shall be entitled to the custody and control of his person (when he resides in the state, and is not confined in an asylum or jail), shall take possession of his estate, and may sue and be sued in respect thereto, and for the recovery of debts due to or from the insane person. He shall take care of and preserve such estate, and manage it to the best advantage; shall apply the personal estate, or so much as may be necessary, to the payment of the debts of such insane person, and the rents and profits of the residue of his estate, real and personal, and the residue of the personal estate, or so much as may be necessary, to the maintenance of such insane person, and of his family, if any; and shall surrender the estate, or so much as he may be accountable for, to such insane person, in case he may be restored to sanity, or the real estate to his heirs or devisees, and the personal estate to his executors or administrators, in case of his death without having been so restored to sanity.

45. There shall be paid out of the estate of any insane person, to the treasurer of the asylum in which he may be or has been confined, all the expenses of his removal to or from the asylum which may have been paid out of its funds, and of his maintenance and care therein; and into the public treasury all the expenses paid thereout. The committee of such insane person, out of his estate, shall pay such expenses of removal and for one year's support in the asylum, at the end of the first year of his confinement, and the amount necessary for his annual support afterwards, at the end of each year, and shall pay into the public treasury the said expenses which may have been paid out of the same, within three months after they shall have been so paid out. All such expenses not paid by the committee, shall be paid by such insane person if he be restored to sanity, or by his representatives out of his estate, real or per-

Ibid § 48.
Duties of.

Ibid § 52.
When, and to
and by whom
expenses of
lunatic to be
paid.

sonal, whether in possession at the time of his becoming insane, or acquired at any time afterwards.

46. The expenses of an insane infant (not paid by his committee) or married woman, incurred in his or her removal, maintenance or care, shall be paid, within the time specified in the preceding section, to the treasurer of the asylum or into the public treasury, as the case may be, by the guardian, if there be one who has sufficient funds in hands, or if no guardian having sufficient estate of such infant, then by his father, or if no father, by his mother, or by the husband of an insane woman.

*Ibid § 53.
Insane infant
or married
woman, ex-
penses of.*

47. The directors of either asylum, on behalf of such asylum, and the auditor of public accounts on behalf of the commonwealth, may respectively, in their discretion, release the whole or any part of any claim of such asylum or the commonwealth, for the expenses attending the removal, maintenance, or care of a lunatic, if he have a family dependent on his estate for support, or if the claim be against the father, mother, or husband of the lunatic, or if, in their opinion, it be just and equitable that the said claim should be so released.

*Ibid § 54.
Claim for ex-
penses, how
released.*

48. Any money for which any person is liable to an asylum or to the commonwealth on account of a lunatic, may be recovered with interest from the time it ought to have been paid, by warrant, suit or motion, in the name of the asylum or commonwealth, as the case may be; when the suit or motion is brought by the asylum, it may be in any court of the county or corporation in which the asylum is, or in which the defendant resides; and in case of a motion, thirty days' notice thereof shall be given.

*Ibid § 55.
Claim for ex-
penses, how
recovered.*

49. If any director of an asylum, justice, clerk of the court, sheriff, or other officer, shall fail to perform any duty required of him in this chapter, or shall offend against any prohibition contained herein, he shall forfeit not less than fifty nor more than one hundred dollars.

*Ibid § 57.
Neglect of
duty, penal-
ties for.*

50. The word "lunatic," whenever it occurs in this chapter, shall be construed to include every insane person who is not an idiot.

*Ibid § 58.
Definition of the
word lunatic.*

51. The railroad commissioner, with the approval of the governor, is hereby authorized to enter into con-

*Act of 1878,
ch. 234, § 1.*

tracts, for the period of two years, with the several railroads and other transportation companies doing business in this state for the transportation of convicts, insane, or other persons who are cared for by the state, the sheriffs and all necessary guards to and from the penitentiary and the several asylums in this state, upon such terms as the railroad commissioner and the several transportation companies have agreed (not to exceed two cents per mile for each passenger transported under such contracts), subject the following or similar provisions: First. It shall be the duty of the railroad commissioner, as soon after the passage of this act as possible, to determine the most direct and practicable route from each court house by which to convey persons to the penitentiary and the several asylums, and shall file a copy of the schedule of routes determined upon with the auditor of public accounts, superintendent of the penitentiary, and the superintendents of the several insane and other asylums, and shall notify the clerks of the several counties in the state of the route determined upon from their respective court houses to the penitentiary, insane, and other asylums. The clerk of the court in which sentence is passed, in addition to the papers usually furnished the sheriff or other officer charged with conveying the prisoner to the penitentiary, shall furnish the said officer a transportation certificate, under seal of the court, stating the number and names of persons entitled to transportation for each part or line of railroad, or other transportation company's line, over which the said sheriff or other officer will necessarily pass in conveying the prisoner or prisoners to the penitentiary. Upon the presentation of the sheriff, or other officer charged with the care of a lunatic, of the proper papers, the clerk shall issue a like certificate of transportation to convey said officer, guard, and patient to the asylum in which the patient is to be received: *provided*, that in all cases such transportation certificate shall be given over the route authorized by the railroad commissioner. The auditor of public accounts shall issue to the sheriff, or other officer presenting the receipt of the superintendent of the penitentiary, for a prisoner duly delivered at that insti-

Railroad commissioner to contract for the transportation of convicts and lunatics with their attendants.

Rate limited per head per mile.

The commissioner to determine the most direct and practicable routes.

Duty of the clerk of court.

Provido.

Duty of order of public accounts, etc.

tution, a similar transportation certificate, which shall entitle the sheriff and other guard to transportation back to the county from which the prisoner was brought. It shall be the

Duty of superintendents of asylums. duty of the superintendents of the several asylums

to furnish sheriffs or other officers delivering patients at their respective institutions with like certificates.

The superintendent of the penitentiary, in lieu of the mileage

Discharged convicts to receive transportation in lieu of mileage. now allowed discharged convicts, shall furnish them with like transportation the distance they are entitled to, over any road or transportation line embraced in the schedule furnished by the railroad

Form of certificates. commissioner. All certificates shall be in the form prescribed by the railroad commissioner, and approved by the several transportation companies in their

respective contracts, and shall be taken up by the conductor or other agent authorized by the said transportation companies to collect fare, as other tickets or fares are collected by them.

To be paid as other claims. The said certificate shall be presented by the transportation companies holding the same, either monthly

or quarterly, as may be determined upon by the said companies and railroad commissioner, to the auditor of public accounts, who shall examine and pay the same, as other claims

When no mileage allowed. against the state are audited and settled. After contracts shall have been made under this act, no mileage

shall be allowed any sheriff or other officer charged with conveying prisoners to the penitentiary or patients to an asylum, for any distance that he travels or shall travel on a railroad or transportation company under the provisions of this act.

Amendment of 1879, ch. 102, § 1. Contracts renewed or extended. 52. The contracts heretofore or hereafter made under the provisions of the first section of this act, may be renewed or extended for such time as the railroad commissioner, with the approval of the governor, shall deem to be the interest or advantage of the state.

The superintendent of each of the several lunatic asylums of the state is hereby authorized and directed, when practicable, to send a proper guard for each patient destined for the asylum under his management: *provided*, that when

Proviso. the said superintendent deems it as well for the patient and more economical for the state, he is hereby empowered to

authorize any friend of the patient of responsibility and character to guard and conduct such patient to the asylum, and shall furnish the party so appointed for the said purpose a certificate, which shall entitle him to the passes usually furnished sheriff or other officers; and upon presentation of said paper to the clerk of the county, city or corporation in which the patient resides, the said clerk shall furnish the said person to convey said patient to the asylum the usual certificates of transportation: *provided further*, that the said superintendent shall allow the party appointed under this provision only the actual necessary expenses incurred by him or them in conveying to the asylum said patient; and in cases in which neither of the above-mentioned arrangements for guarding and conducting the insane to asylum shall be expedient or advisable, the sheriff or other guard, as heretofore, shall conduct insane persons to the asylum, and shall be allowed actual necessary expenses in discharging this duty, and also one dollar per day to the sheriff or other officer for each day actually occupied in this service.

How certificates to issue.

Proviso.

53. When a person in jail on a charge of having committed a criminal offense, appears, from a certificate of a grand jury, or otherwise to the satisfaction of the court in which he is held to answer, to have been insane at the time of committing the act, and continues to be so insane, the court, in its discretion, may order him to be sent to one of the lunatic asylums of the state, or to be delivered to his friends.

Code of 1873, ch. 201, § 14; re-enacted 1878, ch. 16, § 14. When not indicted.

54. No person shall, while he is insane, be tried for a criminal offense.

Ch. 202, § 16; re-enacted 1878, ch. 17, § 16.

55. If a court in which a person is held for trial, see reasonable ground to doubt his sanity at the time at which, but for such doubt, he would be tried, it shall suspend the trial until a jury inquires into the fact as to such sanity. Such jury shall be empaneled at its bar. If the jury find the accused to be sane at the time of their verdict, they shall make no other inquiry, and the trial in chief shall proceed. If they find that he is insane, they shall inquire whether or no he was so at the time of the alleged offense. If they find that he was so at that time, the court may dismiss the prosecution, and either discharge him,

Ibid § 17. Proceedings as to persons alleged or found to be insane.

or, to prevent his doing mischief, remand him to jail, and order him to be removed thence to one of the lunatic asylums of this state. If they find that he was not so at that time, the court shall commit him to jail, or order him to be confined in one of the said asylums until he is so restored that he can be put upon his trial.

56. If, after conviction and before sentence of any person, the court see reasonable ground to doubt his sanity, it may empanel a jury to inquire into the fact as to his sanity, and sentence him, or commit him to jail or to a lunatic asylum, according as the jury may find him to be insane or sane.

57. When the board of directors of the lunatic asylum shall give notice to the clerk of the court, in pursuance of the thirty-second section of chapter eighty-two, such clerk shall issue a precept to the officer of said court, requiring him to bring the said prisoner from the asylum and commit him to jail.

58. When a prisoner is so brought from the asylum and committed to jail, or when it is found by the verdict of another jury that a prisoner, whose trial or sentence was suspended by reason of his being found to be insane, has been restored, if convicted, he shall be sentenced; and if not, the court shall proceed to try him as if no delay had occurred on account of his insanity.

59. When a person tried for an offense is acquitted by the jury by reason of his being insane, the verdict shall state the fact; and thereupon the court may, if it deems him dangerous, order him to be committed to jail until he can be sent to one of the said asylums.

60. When any person confined in an asylum and charged with crime, and subject to be tried therefor, or convicted of crime, shall be restored to sanity, the board shall give notice thereof to the clerk of the court by whose order, or by the order of the judge thereof he was confined, and deliver him in obedience to the proper precept.

61. If a person be found to be insane by justices before whom he may be examined, or in a court in which he may be charged with crime, as aforesaid, the

Ibid § 18.
Court to
empanel a
jury.

Ibid § 19.
Proceedings
when sanity
restored.

Ibid § 20.
Proceedings
when brought
from asylum.

Ibid § 21.
When
acquitted.

Ch. 82, § 32.
How disposed
of when re-
stored to
sanity.

Ibid § 43.
Committee of
a lunatic.

court of the county or corporation of which he is an inhabitant shall appoint a committee of him.

62. If any person charged with or convicted of crime be found, in the court before which he is so charged or convicted, to be a lunatic, and such court shall order him to be confined in one of the lunatic asylums, or if a court, or judge thereof, shall order any person charged with crime to be confined in one of the lunatic asylums, he shall be received and confined if, or so soon as, there is a vacancy therein. The sheriff, or other officer of the court by which, or by the judge of which the order is made, shall immediately proceed, in the manner directed by the seventeenth section of this chapter, to ascertain whether such vacancy exists, and until it is ascertained that there is a vacancy, such lunatic shall be kept in the jail of such court.

Ibid § 27.
Persons
charged with
crime; when
received.

WASHINGTON.

GOVERNMENT OF ASYLUM.

1. Title of asylum.
2. Board of trustees, appointment, term of office, organization.
3. Powers of trustees.
4. Bond of trustees.
5. Superintendent, qualifications, powers and duties.
6. Superintendent exempt from subpoena; officers exempt from jury and militia duty.
7. Accounts, audit, payment.
8. Compensation of trustees.
9. Trustees not to be interested in contracts.
10. Accounts, how kept.
11. Biennial reports of trustees.
12. Accounts and books of asylum to be open to inspection.
13. Ex-officio officers.
14. Superintendent may employ assistants; salaries.
15. Duty of retiring board of trustees.
16. Purchases, power of trustees.
17. Improvements and repairs, duty of trustees.
18. Bills to be certified by president.
19. Appropriations.

ADMISSION AND DISCHARGE.

20. Patients with contagious diseases not admitted.
21. Preferences for admission.
22. Transfer to asylum.
23. Discharge, proceedings.
24. Discharged patients supplied with clothing and money.
25. History of patient, duty of superintendent; support.

26. Correspondence to be unrestricted, regulations.
27. Sudden deaths to be reported.
28. Refusal to comply with two preceding sections, penalty.
29. Transfer to asylum, expenses.
30. Transfer to be made by sheriff or assistant.
31. Sheriff may employ guard.
32. Compensation of guard.
33. Compensation of sheriff.
34. Expenses of transfer, itemized bills.
35. Certificate on admission.
36. Expenses of transfer, how paid.
37. Appointment of guardian.
38. Investigation of insanity, commitment, delivery to friends.
39. Transfer of indigent insane, expenses.
40. Private patients, charges for.
41. Investigation of insanity, costs.
42. If information groundless, expenses paid by complainants.
43. Inquest of insanity, discharge.
44. Support of insane; expenses, how borne.
45. Reimbursement to territory.
46. Expenses of restraint and care, power of probate court.
47. Chargeability of relatives.
48. Indigent insane, support.

CRIMINAL INSANE.

49. Acquittal on ground of insanity, commitment by district court.
50. Acquittal on ground of insanity, commitment.
51. Dangerous insane to be transferred to asylum.
52. Order of court for removal.

1. The territorial asylum for the insane and idiotic, situated near the town of Steilacoom, in the county of Pierce, shall be hereafter styled and known as "The Hospital for the Insane in Washington Territory," and all statutes mentioning and referring to said asylum, heretofore enacted and not otherwise inconsistent with the provisions of

Code of 1881,
§ 2247.
Asylum, how
designated.

this act, shall hereafter have the same operation as if they mentioned or referred to "The Washington Hospital for the Insane."

2. A board of three trustees shall be nominated by the governor, and with the consent of the legislative ^{§ 2248.} council, by him be appointed, who shall be known ^{Board of trustees, how constituted; tenure of office.} as "The Trustees of the Hospital for the Insane in Washington Territory." The said trustees shall hold office for two years from the second Monday in January, following date of appointment and until their successors are appointed and qualified, subject to removal for good and sufficient cause, by the governor, at any time. The board at their first meeting shall elect one of their number president and may appoint as secretary one of their number, or if they prefer, they may appoint any person not a member of the board as secretary. The secretary shall receive an annual salary of one hundred dollars. Should a vacancy occur in the board of trustees, the governor shall appoint to fill the vacancy for such unexpired term. If at any meeting the president be absent, the board shall choose from their number a president pro tempore. Two of the board shall constitute a quorum for the transaction of business.

3. Said board shall have power to make all necessary repairs and improvements as in their judgment may be ^{§ 2249.} necessary, for the conduct of said hospital, and to ^{General powers of the trustees.} hold, manage, dispose of and convey all real and personal property made over to them by gift, devise or bequest and the proceeds and increase thereof for the use of said hospital. Said board shall take charge of the general interests of the hospital and shall manage and conduct the same in such manner as may appear to them best and most economical. They shall employ a superintendent, and may ordain by-laws for the government of said hospital and therein may prescribe, in a manner consistent with the laws of the territory, the duties of all persons connected in any way with the management of said hospital. Said board shall furnish the territorial auditor with a certified copy of such by-laws as they may adopt, and of any and all changes therein which from time to time said board may make.

4. Each of said named trustees and their successors shall,

§ 2250.
Trustees must
give bond to
territory. before entering upon the duties of his office, give a bond of five thousand dollars, approved by the governor and filed in the office of the secretary of the territory, for the faithful performance of his duties.

§ 2251.
Appointment
and qualifica-
tion of super-
intendent. 5. The superintendent shall be a skilful practicing physician, and shall reside upon the hospital grounds. He shall hold his office for such time as the trustees may deem wise and for the efficiency and economy of the institution; he shall have entire control of the medical, moral, dietetic treatment of the patients, and, so far as is not inconsistent with the by-laws and regulations of the hospital, of all other internal government and economy of the institution and he shall, in such manner and under such restrictions and for such terms of time, as the by-laws may prescribe, appoint all subordinate employes, and shall have entire direction of them in their duties.

§ 2252.
Superintend-
ent not re-
quired to at-
tend court as
a witness. 6. The superintendent shall not be required to attend any court as a witness in a civil suit, but parties desiring his testimony can take and use his deposition; nor shall he be required to attend as a witness in any criminal case, unless the judge of the court before which his testimony shall be desired, shall, upon being satisfied of the materiality of his testimony, require his attendance, and he and all other persons employed at the hospital shall be exempt from serving on juries, and in time of peace, from performing military duties.

Officers and
employes ex-
empt from
certain duties. 7. The necessary expenditures of the trustees, the salary of employes and all other expenses incident to the conduct of the hospital, shall be examined by the trustees upon accounts rendered, and if approved by them, shall be so certified to the territorial auditor. The trustees shall, in the by-laws fix the days of their monthly visitations and shall at the hospital on those days, receive and examine all accounts presented to them and certify to the territorial auditor such as they approve.

§ 2253.
How accounts
audited and
paid. 8. The trustees shall each be paid his actual and necessary traveling expenses, in going and returning from the meeting of said board, and in performing the necessary visitation required by this act, and shall be reimbursed all other necessary expenditures incurred in dis-

§ 2254.
Personal ex-
penses of
trustees, how
paid.

charge of their official duties, and shall receive three dollars per day for the time actually spent in the discharge of such duties.

9. No trustees shall be appointed or employed in any office under authority of the board except as provided in section 3147 [2248] of this act, nor be directly or indirectly interested in any contract, debt or account to be made by said board for any purpose whatever.

§ 2255.
No trustee to
be interested
in any con-
tract.

10. The trustees shall cause the accounts of said institution to be so kept and reported as to show the quality, quantity, cost and vendor of every article purchased for use therein.

§ 2256.
How accounts
must be kept.

11. The trustees shall meet on, or within one month before the first day of meeting of the legislative assembly, at every biennial session thereof, and shall then prepare and lay before the governor and said assembly, a full and detailed, but concise report, exhibiting a particular statement of the condition of the hospital and all its concerns, an account of all contracts, expenditures and liabilities, with a list of the salaried officers and their salaries, and in a tabular form the value of the stock and supplies on hand.

§ 2257.
Must make
out report
every two
years.

12. The accounts and books of the hospital shall at all times be open to inspection of the legal visitors of the institution, or any taxpayer of the territory.

§ 2258.

13. The governor, justices of the supreme court and members of the legislature shall be ex-officio visitors of the institution.

§ 2259.

14. The superintendent, by and with the consent of the board of trustees, may employ such assistants as are necessary for the effectual and economical management of the institution, and the regular officers shall not receive salaries to exceed the following sums: one superintendent, twenty-two hundred dollars per annum, (\$2200); one accountant, thirteen hundred dollars per annum, (\$1300); one head warden, six hundred and fifty dollars per annum, (\$650); four additional wardens, each five hundred and fifty dollars per annum, (\$550); one additional warden, four hundred dollars per annum, (\$400); two matrons, to aggregate one thousand dollars per annum, (\$1000); one assistant matron, three hundred dollars per annum, (\$300); one laborer, four hundred

§ 2266.
Superintend-
ent may em-
ploy assist-
ants: salary.

dollars per annum, when required, (\$400); one teamster, four hundred dollars per annum, when required, (\$400); one carpenter, six hundred and fifty dollars per annum (\$650). All the officers and employes may be furnished subsistence, quarters, lights and fuel for one, with quarters for a family, in excess of salaries.

15. The retiring board of trustees, and those constituting the board to be appointed during each session of the legislature, shall meet on the second Monday of January following, when it shall be the duty of the retiring board to examine and vouch for all accounts and liabilities they may have contracted, and then turn over all books and other property belonging to the institution to the new board of trustees.

16. The board of trustees shall have power to make all purchases necessary to carry into effect the provisions of this act, which purchase made shall be from the lowest responsible bidder. Said board shall, as often as it deems necessary, advertise for two consecutive weeks, in two or more newspapers published in the territory, for sealed bids, in duplicate, for the furnishing of all the supplies required until the date of the next advertisement. Bids shall be accepted in detail as near as practicable, and the advertisement shall so state. The contract for such supplies shall be let to the lowest responsible bidder; all bids received by the board shall be kept by its secretary and shall be subject to inspection by any person. No officer or employe shall have authority to purchase at the expense of the territory any article for the hospital, except in case of extreme necessity, and when the superintendent shall consider such article absolutely necessary. But all supplies shall be purchased as provided in this section.

17. For all material, improvements or repairs required at the hospital for the insane the trustees shall advertise as provided in this chapter for the purchase of supplies, and let the same to the lowest responsible bidder, stating in said advertisement the kind of buildings, improvements and material, so that a bidder can bid intelligently. And in no case shall the trustees expend more than five hundred dollars in any one year for improvements, material or repairs, except as above provided.

§ 2268.

Duty of retiring board of trustees.

§ 2269.

Powers of trustees to make purchases.

§ 2270.

Material and improvements, how purchased and made.

18. All itemized bills of purchase made, when having been examined by the board of trustees and found correct, shall be certified by the president, or the president, pro tem., of the board then sitting, and the same transmitted to the auditor who shall audit the same and draw his warrant on the territorial treasurer for the amount, and the said treasurer is hereby authorized and required to pay the same out of any money in the treasury not otherwise appropriated.

§ 2271.
All bills found correct must be certified by the president.

19. Twenty-six thousand dollars, or so much thereof as may be necessary, are hereby appropriated for each fiscal year, to defray the expenses of said institution; and an additional sum per annum of not to exceed two thousand dollars in any one year, for the purpose of repairs of buildings, the erection of additional wards, and supplying water to said institution.

§ 2272.
Appropriation for asylum.

20. No person laboring under any contagious or infectious disease shall be admitted into said hospital as a patient.

§ 2260.

21. In admitting patients to and retaining them in the hospital, the indigent insane of this territory shall always have precedence; and if at any time the provisions of the institution are not sufficient to meet the applications for admission, recent cases shall, for the time being, have precedence over those of a chronic character.

§ 2261.
Indigent patients of the territory; preference for admission.

22. In conveying patients to the hospital, the sheriff, with the approval of the judge of the probate or district court from which the warrant of commitment issues, may employ one assistant for each patient.

§ 2263.
Sheriff to convey patients to asylum.

23. Any patient may be discharged from the hospital, when, in the judgment of the superintendent it may be expedient. Whenever a patient not cured, or any indigent patient shall be ordered discharged, the superintendent shall immediately give notice thereof to the probate judge of the county in which said patient resided, and if in the judgment of the superintendent, such patient so ordered to be discharged is in fit condition to be sent to his or her county, unattended by any person, the superintendent may return the patient to the county, from whence he or she

§ 2264.
When and how patients are discharged.

came, if indigent, at the expense of said county, but if such patient so ordered to be discharged from said hospital and care, without endangering the health of such patient, is through or by any reason unfit to be alone sent to the county from which he or she was committed to said hospital, the superintendent shall so certify to the probate judge of said county; who shall immediately, upon receipt of the notice, issue his warrant to the sheriff, commanding him to remove the patient and return him or her to the county from whence he or she came. If, within thirty days after the notice, the patient be not removed, the superintendent, if he think necessary, may return the patient to the county from which he or she came, at the expense of the county: *provided*, that if any such patient is not in a condition to either go or be removed to said county, he or she may, for the time being, be retained in said hospital at the expense of the county from which he or she was so committed.

24. No pauper shall be discharged from the hospital without suitable clothing; and the trustees may furnish the same at their discretion, together with such sum of money not exceeding ten dollars as they may deem necessary. To carry into effect the provisions of this section, the board of trustees are hereby authorized and empowered to make requisitions on the territorial auditor for such sum or sums as from time to time they may need for the purpose mentioned herein, not exceeding, however, the sum of two hundred dollars per annum and said territorial auditor on receipt of such requisitions signed by the president and secretary of said board shall issue the warrant on the territorial treasurer for the amount thereof with the limitations prescribed herein.

25. It shall be the duty of the superintendent to ascertain by diligent inquiry and correspondence, the history of each and every patient admitted to the hospital, and whether such patients, or their friends or families, if any there be, are able to defray the expenses of his or her care, and report the facts to the board of trustees, who shall use efficient means for the collection of all sums due the institution, from those who are able to pay for such care.

§ 2265.

Indigent insane not to be discharged without clothing and money.

§ 2267.

Superintendent shall ascertain history of each patient.

26. There shall be no censorship exercised over the correspondence of the inmates of insane asylums, except as to the letters to them directed, but their other post office rights shall be as free and unrestrained as are those of any other resident, or citizen of this territory, and be under the protection of the same postal laws; and every inmate shall be allowed to write one letter per week, to any person he or she may choose. And it is hereby made the duty of the superintendent to furnish each and every inmate of each and every insane asylum, both public and private, in the territory of Washington, with suitable material for writing, enclosing, sealing, stamping and mailing letters, sufficient for the writing of one four page letter a week: *provided*, they request the same, unless they are otherwise furnished with it; and all these letters shall be dropped by the writers themselves, accompanied by an attendant, when necessary, into a post office box, provided by the territory, at the institution, in some place easily accessible to all the patients; and the contents of these boxes shall be collected at least as often as once in each week, by an authorized post office agent; and it is hereby made the duty of the superintendent of every insane asylum in the territory of Washington; both public and private, to deliver or cause to be delivered to said person, any letter or writing to him or her directed: *provided*, the physician in charge does not consider the contents of such letter dangerous to the mental condition of the patient.

§ 2273.
Correspondence of patients free from censorship.

27. In the event of the sudden or mysterious death of any inmate of any insane asylum, either private or public, in the territory of Washington, such fact shall be reported by the superintendent thereof to the coroner of the county in which such death occurs, or to the nearest justice of the peace therein, and a coroner's inquest shall be held as provided by law in other cases. And in all asylum investigations, the testimony of any person offered as a witness, whether sane or insane, shall be competent, and the court and jury shall be the sole judges of the credibility of such testimony.

§ 2274.
Sudden deaths to be reported to coroner.

28. Any person refusing or neglecting to comply with, or wilfully and knowingly violating any of the provisions of this chapter shall, upon conviction thereof,

§ 2275.
Punishment for failure to comply with

the provisions
of last two
sections; ex-
penses of in-
quest, paid by
territory.

be punished by imprisonment in the penitentiary for a term not exceeding three years, or by fine not exceeding five hundred dollars, or both at the discretion of the court, and shall be ineligible to any office in the institution afterwards: *and, provided further*, that the expense of said coroner's inquest shall be paid by the territory of the fund appropriated for the support of the hospital for the insane.

29. The cost of transporting persons to the insane asylum
§ 2276. shall be paid by the territory of Washington.

30. The person adjudged insane must be conveyed to the
§ 2277. asylum by the sheriff of the county in which such
Sheriff must
take all in-
sane persons
to asylum.
person, or persons are adjudged insane, or by some
person selected by the sheriff.

31. In case the probate judge shall deem it necessary, he
§ 2278. may direct, in the order adjudging the insanity of
Upon order of
court, sheriff
may employ
guard.
any person or persons, that the sheriff may select
one person as a guard to assist in conveying said
person or persons to the asylum.

32. The person so selected as a guard shall receive three
§ 2279. dollars per day, and no more, for his services as
Compensating
guard.
such guard, for the time necessarily employed by
him in assisting to convey such insane person to the asylum,
only; and in addition thereto he shall receive ten cents per
mile both ways, computed by the nearest traveled route to the
asylum from the county seat in which such person or persons
were adjudged insane.

33. The sheriff shall receive five dollars per day and no
§ 2280. more for the time necessarily employed in convey-
Compensation
of sheriff;
mileage, how
computed.
ing insane persons to the asylum, and in addition
thereto he shall receive ten cents per mile both
ways, to be computed by the nearest route to the asylum from
the county seat in which such person or persons were adjudged
insane.

34. The said sheriff and guard shall each make out in writ-
§ 2281. ing an itemized account, showing the number of
Sheriff and
guard must
furnish item-
ized bills un-
der oath.
days necessarily employed in conveying said insane
persons to the asylum, the route traveled, the num-
ber of miles traveled, as provided in this chapter,
and shall verify the same by his oath. In addition thereto

said sheriff or guard conveying such insane person shall make a like account of the amount necessarily paid out by him for the board and traveling expenses of the insane person or persons, and shall verify the same by his oath; accounts so made out must be filed with the territorial auditor.

35. Whenever any patient is delivered at the asylum under the provisions of this act, the superintendent of the § 2282. Upon delivery of patient, superintendent must give certificate to sheriff, stating name of patient and county.

36. The territorial auditor shall examine the sworn statement of the sheriff, or guard, and the certificate of the superintendent of the hospital for the insane, and if he find the same correct, he shall audit the same, or any part thereof, and issue a warrant on the territorial treasurer who shall pay the same out of any money in the treasury not otherwise appropriated. § 2283. Accounts of sheriff and guard, how audited and paid.

37. The several probate courts in their respective counties in this territory, shall have power to appoint guardians to take the care, custody and management of all idiots, insane persons, and all who are incapable of conducting their own affairs; and of their estates, real and personal; the maintenance of themselves and families, and the education of their children. § 1631. Probate courts may appoint guardians, etc.

38. The probate court of any county in this territory, or the judge thereof, upon application of any person under oath, setting forth that any person by reason of insanity is unsafe to be at large, or is suffering under mental derangement, shall cause such person to be brought before said court or judge at such time and place as the court or judge may direct; and shall cause to appear at said time and place, one or more respectable physicians who shall state under oath or in writing, their opinion of the case; and if the said physician or physicians shall certify to the insanity or idiocy of said person, and it appear to the satisfaction of the court or judge that such is the fact, said court or judge shall cause such insane or idiotic person to be taken to and placed in the hospital for the insane in Washington territory: *provided*, that such person or any person in his be-

half, may demand a jury to decide upon the question of his insanity, and the court or judge shall discharge such person if the verdict of the jury is that he is not insane. Said court or judge shall also inquire as to the ability of such insane or idiotic person to bear the expense of his keeping in said hospital, and shall certify the result to the trustees of the hospital for the insane in Washington territory, and in case such person shall have sufficient means to bear such expense, said court or judge shall cause to be paid to the territorial treasurer the amount of two months' expenses in said hospital in advance, and a like amount regularly every two months thereafter so long as such person remains under treatment in said hospital if he shall have means [sufficient] therefor: *provided, however*, that if such person be the head of a family, no property that is by law exempt from execution or attachment for debt shall be taken to pay such expenses: *provided*, that when the relations or friends desire to take charge of such insane or idiotic person the court or judge may so order, if they shall give bonds to be approved by said judge conditioned that such insane or idiotic person shall be well and securely kept.

Court may
permit
friends
to take charge,
when.

39. The county shall, in all cases where the person is indigent, be at the expense of such conveyance to the asylum, and in the event of the death of such person, be chargeable with the funeral expenses: [*provided*, that when such insane person is a resident of another county, the county wherein such proceedings were had shall recover from the county of which such insane person is a resident all costs and expenses.]*

§ 1633.
In indigent
cases counties
liable.

40. Paying patients, whose friends or whose property can pay their expenses shall do so in accordance with the contract made with the trustees of the institution; the charge in all cases shall be reasonable and in proportion to the amount of care and accommodation required by their friends or guardians.

§ 1634.
Pay patients
shall comply
with contract.

41. When any person shall be found to be insane, or coming within the provisions of this act, the cost of the proceedings shall be paid out of his estate, or, if that be insufficient, by the county.

§ 1636.
Ward's estate
first liable, if
sufficient,
then county.

*See § 2276, pl. 29, supra.

42. If the person alleged to be insane shall be discharged and it shall be thought by the court that there were no grounds for such impression of insanity, then the cost shall be paid by the person at whose instance the proceeding was had, and execution may issue for the same.

§ 1637.
When complainant shall be liable for costs.

43. Whenever the court shall receive information that such ward has recovered his reason, he shall immediately inquire into the facts, and if he finds that such ward is of sound mind, he shall forthwith discharge such person from care and custody; and the guardian shall immediately settle his accounts and restore to such persons all things remaining in his hands belonging or appertaining to such ward.

§ 1632.
Recovery of reason by ward, discharges guardian.

44. All the expenses of taking care of such insane person and the management of his estate, shall be paid out of his estate if it be sufficient, if not, out of the territorial treasury.

§ 1633.
Expenses, how borne.

45. In all cases of appropriation out of the territorial treasury for the support and maintenance, treatment, or confinement of any insane person, the amount thereof may be recovered by the territory from any person, who by law is bound to provide for the support and maintenance of such insane person, if there be any such ability to pay the same.

§ 1654.
Territory may receive disbursements from any one who is bound by law to support insane person.

46. Every probate court shall have power to make orders for the restraint, support and safe keeping of such person, for the management of his estate, and the support and maintenance of his family, and education of his children, out of the proceeds of his estate; to set apart and reserve, for the use of such family, all property, real or personal, not necessary to be sold for the payment of debts; and to let, sell or mortgage any part of such estate, real or personal, when necessary for the payment of debts, the maintenance of such insane person or his family, or the education of his children.

§ 1645.

47. The father or mother of such insane person shall maintain them at their own charge, if of sufficient ability, and if not, then the children, grandchildren, or grandparents, shall, if of sufficient ability, maintain them at their own charge.

§ 1635.

48. Every poor person who shall be unable to earn a live-

§ 2897. lihood in consequence of bodily infirmity, idiocy, lunacy or other cause, shall be supported by the father, grandfather, mother, grandmother, children, grandchildren, brothers or sisters of such poor person, if they or either of them be of sufficient ability; and every person who shall fail or refuse to support his or her father, grandfather, mother, grandmother, child, grandchild, sister or brother, when directed by the board of commissioners of the county where such poor person shall be found, whether such relative reside in the county or not, shall forfeit and pay to the county, for the use of the poor of their county, the sum of thirty dollars per month, to be recovered in the name of the county commissioners for the use of the poor as aforesaid, before any justice of the peace, or any court having jurisdiction: *provided*, that when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support from any relation except parent and child.

49. The district courts of the territory shall have power to commit to this institution any person, who, having been arraigned for an indictable offense, shall be found by the jury to be insane at the time of such arraignment, and the costs of such commitment shall be paid in the same manner as the costs of a commitment of an insane person out of a probate court.

§ 2262. District courts may commit persons acquitted on account of insanity.
50. When any person indicted for an offense shall, on trial, be acquitted by reason of insanity, the jury, in giving their verdict of not guilty, shall state that it was given for such cause; and thereupon, if the discharge, or going at large of such insane person shall be considered by the court manifestly dangerous to the peace and safety of the community, the court may order him to be committed to prison, or may give him into the care of his friends, if they shall give bonds with surety to the satisfaction of the court, conditioned that he shall be well and securely kept, otherwise he shall be discharged.

§ 1101. When defendant is acquitted on grounds of insanity.
51. All persons now imprisoned by order of the district courts of this territory who were found not guilty of the offense with which they stood charged, in consequence of insanity, and the court deeming it unsafe to the community to discharge them, and so ordered their con-

§ 2063.
To be sent to asylum.

finement in prison under the provisions of the statute then in force, [shall] be sent to the asylum provided by the territory for the insane, and there safely kept until cured or otherwise discharged by authority of law.

52. The district court or judge thereof which had cognizance of and tried the case, is hereby authorized and required to make an order requiring the sheriff of the county, where the party is confined, to transport such insane person, without delay, to the said asylum, and the superintendent of said asylum is required to receive such persons in said asylum and care for them as he cares for other insane patients: *provided*, that in no case shall the territory be chargeable for the transportation and keeping of such insane persons when such insane persons may have sufficient property, real or personal, to defray the expense of said transportation and keeping at the asylum; but if such insane persons are not able to pay the expense of such transportation, then such expense shall be paid by the territory in the same manner as is usually paid for the transportation of insane persons.

§ 2068.
Court, or
judge, shall
make order.

Expenses of
keeping, how
paid.

WEST VIRGINIA.

GOVERNMENT OF ASYLUM.

1. Asylum continued, title, board of directors.
2. Powers of directors.
3. Board of directors, appointment, term of office.
4. Treasurer, duties, bond.
5. Reports of directors.
6. President of board.
7. Superintendent and other officers.
8. Fiscal year, accounts.
9. Semi-annual accounts.
10. Term of office of directors, compensation.
11. Removal of directors.
12. Vacancies, how filled.
13. Directors not to be interested in contracts.
14. Neglect of official duty, penalty.

ADMISSION AND DISCHARGE.

15. Investigation of insanity, interrogatories, commitment.
16. Proceedings on investigation.
17. Interrogatories, statement of justice.
18. Duty of committing officer.
19. Transfer to asylum, expenses.
20. Admission to asylum.
21. Refusal to admit, return of patient.
22. Non-residents, temporary confinement, return to friends.
23. Non-residents, when admitted.
24. Insane of naval service to give place to residents.
25. Idiots to be returned to county, expenses of removal.
26. Discharge to friends, criminals excepted; harmless incurables.
27. Delivery of patient to sheriff by surety.
28. Escape, recommitment.
29. Discharge on recovery, certificate.
30. Legal settlement defined.
31. Support of insane, by whom paid.

32. Lunatics confined in jail, disposition of, by court.
33. Transfer to asylum, expenses, commitment.
34. Fees of committing officers.
35. Duty of committing officer, penalty.
36. Support of insane in jail, allowance to jailer.
37. Further allowance, for nurses and physicians.
38. Appointment of committee.
39. Investigation of insanity, committee appointed.
40. Non-resident, like proceedings.
41. Bond of committee.
42. Powers and duties of committee.
43. Real estate of patient, when sold, petition.
44. Petition referred to commissioner in chancery.
45. Order of sale, disposition of proceeds.
46. Support of infant insane, to whom chargeable.
47. Investigation of insanity, expenses borne by county.
48. "Lunatic," definition of.
49. "Insane person," definition of.

CRIMINAL INSANE.

50. Transfer to asylum, proceedings.
51. Incurables in penitentiary, duty of justice, investigation, proceedings.
52. Acquitted on ground of insanity, transfer to asylum.
53. Non-accountability to law.
54. Investigation of insanity before trial, removal to asylum.
55. After conviction, like proceedings.
56. Notice of recovery, prisoner remanded to jail.
57. On recovery, proceedings resumed.
58. Fact of insanity to be stated in verdict of acquittal.
59. On restoration to sanity, remanded.

NOTE.—Chapters 54, 55, 99, 108 and 114 of the Revised Statutes of 1879 correspond with chapters 158, 159, 14, 13 and 58 respectively of the code.

1. The West Virginia hospital for the insane, established at the town of Weston, in the county of Lewis, shall continue under the management of the present board of directors and their successors in office, who shall continue a body corporate by the name of the "West Virginia Hospital for the Insane."

Revised Statutes of 1879, ch. 108, § 1. Hospital for insane, a body corporate.

2. By that name the board of directors may sue and be sued, and have a common seal, and continue to have charge of the hospital and of any real or personal estate heretofore or hereafter given or conveyed to it or to themselves for its use.

Ibid § 2. Power of directors.

3. The board of directors shall be composed of nine members. The governor shall nominate and by and with the advice and consent of the senate appoint said directors, whose term shall expire on the first day of February, one thousand eight hundred and eighty-three, and in the month of January, one thousand eight hundred and eighty-three, the governor shall nominate, and by and with the advice and consent of the senate, appoint nine directors for said hospital, but said directors shall be divided into three classes, equal in number. The terms of office of the directors so appointed in the month of January, one thousand eight hundred and eighty-three, shall commence on the first day of February one thousand eight hundred and eighty-three, and the terms of those in the first class shall be two years, those in the second class four years and those in the third class six years. In the month of January, in the year one thousand eight hundred and eighty-five, and every second year thereafter, the governor shall nominate and by and with the advice and consent of the senate, appoint three directors instead of the class whose terms expire in such year, and the terms of such three directors shall commence on the first day of February, in the year of their appointment, and continue six years. The governor may in like manner fill any vacancies that may occur in the board, and any one appointed a director by him during the recess of the senate, shall be a director until the next session of the senate thereafter. Not more than one director in each class shall be appointed from the county of Lewis, and not more than one director in the board shall be appointed from any

Ibid § 3, as amended 1882, ch. 67. Board of directors to consist of nine members. How appointed, terms of office, vacancies, quorum.

other county. Unless otherwise provided by law, a majority of the board shall constitute a quorum, but the board may in its discretion designate business of a nature by it to be specified, which may be transacted by a stated number of directors less than a quorum.

4. The treasurer heretofore appointed shall continue to discharge the duties of that office during the pleasure of the board, and any vacancy in such office shall be filled by the board, who shall require the person appointed to give bond in such penalty as they may prescribe. The treasurer shall receive all money belonging to the hospital, and disburse the same under the orders of the board, and settle his account semi-annually. His draft on the treasury for an appropriation shall be under the order of the board, a copy of which shall accompany the draft; but no such draft shall be allowed by the auditor until all money drawn for the preceding year shall have been accounted for.

5. The board of directors shall annually, on or before the first day of January in each year, report to the governor, for the information of the legislature, the condition of the hospital, with a full account of their contracts, receipts, disbursements, and proceedings; and an account of all sums received and disbursed, with a list of the patients, designated by name or otherwise, in the hospital during the preceding year, showing their age and sex, place of residence and civil condition, the deaths and discharges, and condition when discharged, and any statistics and remarks as to the management of the insane, and the subject of insanity, which, in their judgment may be useful.

6. The board of directors shall biennially choose one of their body to be president, and, in his absence shall choose a president pro tempore.

7. A superintendent, and as many assistants as may be necessary (who shall be physicians) and other officers, shall be appointed by the board, and shall receive such compensation as the board may prescribe. The board may also appoint an executive committee and may authorize the superintendent to employ as many nurses and attendants as may be necessary, and also discharge them, or any of them, and employ others, but the board shall

Ibid § 4.
Treasurer.

Ibid § 5.
Report of
board of di-
rectors.

Ibid § 6,
as amended
1882, ch. 67.

Ibid § 7,
as amended
1882, ch. 67.
Superintend-
ent and other
officers.

fix their compensation. Any one or more of the directors, together with the superintendent, shall constitute an examining board, and may examine persons brought to the asylum as lunatics, and order those found to be such to be received.

8. The fiscal year of the said hospital shall end on the thirtieth day of September, annually, and the directors and treasurer shall settle their accounts so as to conform thereto.

Ibid § 8.
Fiscal year.

9. The board shall transmit to the auditor the semi-annual accounts of their treasurer, and also a copy of his official bond, as soon as the same shall have been rendered or executed.

Ibid § 9.
Semi-annual
accounts.

10. The terms of such officers shall respectively commence and continue, and they shall have such compensation and perform such duties and exercise such powers as are prescribed by law for such officers.

Ch. 99, § 32.
Terms of office; compensation.

11. The governor shall have power to remove any of such officers in case of incompetency, neglect of duty, gross immorality or malfeasance in office; and he may declare any such offices vacant, and fill the same as provided in the following section.

Ibid § 33.
Removal.

12. In cases of vacancy, during the recess of the senate, in any of the offices mentioned in this act, the governor shall by appointment fill such vacancy until the next meeting of the senate, when he shall make a nomination for such office; and the person so nominated, when confirmed by the senate, (a majority of all the senators concurring by ayes and nays), shall hold his office during the remainder of the term and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office during the same session, unless at the request of the senate, nor shall such person be appointed to the same office during the recess of the senate. All acts or parts of acts inconsistent with this act are hereby repealed.

Ibid § 34.
Vacancies during recess of senate.

13. No director of the hospital shall be personally interested in any contract in relation to the said hospital, or its support.

Ch. 108, § 49.
Director not to be interested in contract.

14. If any director of the hospital, justice, clerk of court, or other officer shall fail to perform any duty required

Ibid § 50.

^{Neglect of duty.} of him in this chapter, or shall offend against any prohibition contained herein, he shall forfeit not less than fifty nor more than one hundred dollars.

15. Any justice who shall suspect any person in his county to be a lunatic, shall issue his warrant ordering such person to be brought before him. He shall inquire whether such person be a lunatic, and for that purpose summon a physician and any other witnesses. In addition to any other questions, he may propound as many of the following as may be applicable to the case:

^{Ibid § 11, as amended 1882, ch. 87. Arrest and examination of lunatic.}

- (1) What is the patient's age and where born?
- (2) Is he married? If so, how many children has he?
- (3) What are his habits and occupation?
- (4) How long since indications of insanity appeared?
- (5) What were they?
- (6) Does the disease appear to increase?
- (7) Are there periodical exacerbations? Any lucid intervals, and of what duration?
- (8) Is his derangement evinced on one or on several subjects? What are they?
- (9) What is the supposed cause of his disease?
- (10) What change is there in his bodily condition since the attack?
- (11) Has there been a former attack? When, and of what duration?
- (12) Has he shown any disposition to commit violence to himself or others?
- (13) Whether any and what restraint has been imposed on him?
- (14) If any, what connections of his have been insane? Were his parents or grandparents blood relations? If so, in what degree?
- (15) Has he had any bodily disease from suppression of evacuations, eruptions, sores, injuries, or the like, and what is its history? What curative means have been pursued, and their effect, and especially if depleting remedies, and to what extent, have been used?

16. If the said justice decide that the person is a lunatic, and ought to be confined in the hospital, and ascertain that he is a citizen of this state, then, unless some person (to whom the justice in his discretion may

^{Ibid § 12. Proceedings upon such examinations.}

deliver such lunatic) will give bond, with sufficient security, to be approved by said justice, payable to the state, with condition to restrain and take proper care of such lunatic, until the cause of confinement shall cease, or the lunatic is delivered to the sheriff of the county, to be proceeded with according to law, the said justice shall order him to be removed to the hospital, and received, if there be room therein.

17. The interrogatories to the witnesses and the answers thereto shall be in writing, and, together with a written statement by the justice of any matter known to him as to the fact of insanity, shall be transmitted by him with the order.

Ibid § 13.
Interrogatories.

18. The sheriff, or other officer to whom such order of the justice is directed, shall immediately ascertain, by written inquiry of the superintendent of the hospital, whether there is a vacancy therein; and further ascertain whether the said superintendent will remove said lunatic to the hospital. Until it is ascertained that there is a vacancy, and until the said superintendent shall remove the lunatic, the patient shall be kept in the jail of the county. Whenever a lunatic is removed from jail on bond before the superintendent shall send for him, it shall be the duty of the sheriff to notify the superintendent without delay, and when the friends of any patient remove on bond any patient from the hospital such removal and return to the hospital, if the patient is returned, shall be at the expense of such friends.

Ibid § 14.
as amended
1882, ch. 67.
Duty of
officer to
whom order
of justice is
directed.

19. The superintendent shall, without delay, cause the lunatic to be removed to the hospital, but no other or greater allowance shall be made therefor than the actual expenses, to be paid out of the fund for transporting patients.

Ibid § 15,
as amended
1882, ch. 67.
Patient to be
carried to
hospital.

20. When such patient arrives at the hospital, an examining board shall be assembled as soon as may be, and, if they concur in opinion with the justice, shall receive and register him as a patient.

Ibid § 16.
Same.

21. If they refuse to receive the patient because in their opinion he is not a lunatic, they shall so certify in writing, to the officer in whose custody he may be, and such officer shall convey him back to the

Ibid § 17,
as amended
1882, ch. 67.
When patients
not received

county in which he was examined and there discharge him, and if they refuse to receive the patient for any other cause, such officer shall convey him back to the county in which he was examined, and confine him in the jail thereof until he be lawfully discharged or removed therefrom.

22. If it appear to the justice that the person examined by him is a lunatic, and a non-resident of the state, he shall be committed to jail; and if any non-resident be received into the hospital under such order, or be committed to jail, the board in one case, and the court to whose jail he may have been committed, in the other, shall, as soon as practicable, cause him to be returned to his friends, or to the proper authorities of the state from which he came, [and the expenses necessarily incurred in effecting such removal, including a compensation to the person making such removal, and one guard when necessary, of one dollar each per day, for each day actually employed in making such removal, shall be paid out of the state treasury on the warrant of the auditor. The governor may take such steps as he may deem proper to obtain from the state of which said lunatic is a resident, such expenditures as may be made by the state under this act.] But if the justice cannot ascertain of what state a lunatic is a resident, and shall so certify, the lunatic may be received into the hospital if there be room therein, to be kept until information is received as to his residence.

23. No non-resident lunatic shall be admitted or retained in the hospital under any contract with the board, except when there is a vacancy therein not applied for on behalf of any person residing in the state. When so admitted, the board may at any time discharge him and require his friends to take charge of him or send him back to his home, and shall do so whenever it may be necessary in order to make room for a person residing in the state.

24. Insane persons of the naval service of the United States, who may be sent to the hospital by the secretary of the navy under the thirtieth section of the act of congress, approved August the third, eighteen hundred and forty-eight, may be received in such hospital; but when it shall become necessary for the purpose of admitting therein insane persons who are citizens of this state, the board

Ibid § 18,
as amended
1882, ch. 87.
Non-residents,
expenses of,
etc.

Ibid § 19.
Same.

Ibid § 20.
Insane per-
sons of naval
service.

shall cause such insane persons of the naval service or marine corps, or so many as may be necessary, to be removed from the hospital and restored to the care of the secretary of the navy.

25. If any idiot be sent to or received in the hospital, the board shall order him to be removed to the county whence he came, and delivered to his committee, if he have one, or if not, to the county court or a county commissioner, who shall give a receipt for him. The costs of such removal shall be paid out of his estate, if sufficient, but if not, shall be provided for by the said county court at the charge of their county.

Ibid § 21,
as amended
1882, ch. 67.
Idiota.

26. Except in the case of a person charged with crime and subject to be tried therefor, or convicted of crime and subject to be punished therefor, when in a condition to be so tried and punished, the board of the hospital or the circuit court of any county may deliver any lunatic confined in the hospital or in the jail of such county to any friend who will give bond with security, with the condition mentioned in the twelfth section of this chapter, and where a lunatic, except as aforesaid, is deemed by the superintendent of the hospital both harmless and incurable, the board may deliver him without such bond to any friend who is willing, and in the opinion of the board, able to take care of him.

Ibid § 23.
When persons
may be dis-
charged from
hospital.

27. If the person giving any bond mentioned in the preceding, or the twelfth section of this chapter, or his representative, shall deliver the lunatic therein mentioned to the sheriff of the county, according to the condition of the bond, such sheriff shall confine the lunatic in the jail of his county until a vacancy shall occur in the hospital, as provided in section fourteen of this chapter.

Ibid § 24.
Same.

28. If any lunatic confined in the hospital shall escape, the president of the board, or, if required by any person to do so, any justice of the county, where such lunatic may be, shall issue his warrant to the sheriff of such county to arrest and carry him back to the hospital, which warrant the sheriff shall forthwith execute, and may execute it in any part of the state.

Ibid § 25.
Escape of lu-
natics.

29. When any other person confined in the hospital or in

Ibid § 27.
as amended
1882, ch. 67.
Other persons
restored to
sanity. jail as a lunatic shall be restored to sanity, the examining board, if such person be in the hospital, and the circuit or county court of the county in which he is confined, if he be in jail, shall, upon examination of such person, discharge him from custody and give him a certificate thereof.

Ibid § 28.
Residence of
patient. 30. Each patient in the hospital shall be deemed an inhabitant of the county in which he had a legal settlement at the time of his removal to the hospital.

Ibid § 29.
Expenses of
lunatics, how
paid. 31. If not previously paid by individuals, the expense of removing any lunatic to and from the hospital, and of the maintenance and care of him therein, shall be paid out of the treasury of the hospital, and the expense of the maintenance and care of any lunatic in any jail shall be paid out of the public treasury; such expenses, in either case, to be refunded in the manner hereinafter provided.

Ibid § 31.
Lunatics in
jail. 32. When any person shall be confined in any jail as a lunatic, the jailer shall certify the fact to the circuit court of the county at the next ensuing term. The court shall thereupon cause such person to be examined by two disinterested persons, who shall, as soon as may be, report the result thereof. The court shall then make such provision for the maintenance and care of him as his situation may require.

Ibid § 33.
Allowances
to officers. 33. Each officer shall be allowed eight cents per mile, besides tolls and ferriages for himself and the same for each guard, both going to and returning from the hospital to carry a lunatic, and the same sum for the lunatic, going and also returning, when he is carried from the hospital. But no officer shall be allowed for more than one person as a guard for one lunatic, without a warrant from the examining justice, authorizing more than one, nor then for more than two persons.

Ibid § 33 a.
Additional
compensa-
tion. 34. In addition to the compensation allowed by section thirty-three, of chapter fifty-eight of the code, for carrying lunatics to the hospital for the insane, the circuit courts may allow such reasonable additional compensation for such services as may be just and proper in cases where the allowance authorized by the said section is not sufficient to pay the actual expenses incurred by the officers,

including a just compensation for the labor and time employed in such service, and the auditor is authorized to pay all bills for services of the character here referred to upon the certificate or order of the court granting such additional compensation.

35. No officer shall be allowed anything for carrying a lunatic to or from the hospital, either for himself, his guard, or the lunatic, unless he shall have previously ascertained that there was a vacancy therein.

Ibid § 34.
Allowance to officers.

36. The allowance to the jailer for the maintenance and care of a lunatic shall be fixed by the court in whose jail he is confined. No more shall be allowed for his clothing than thirty dollars a year. No such allowance shall be audited and paid, unless it appear in the certificate of it that the jailer proved to the court that, immediately after the commitment of the lunatic, and at least once in every twenty days thereafter, application was made to the board of directors of the hospital for admission, and that such application was refused for want of room, or that such applications were not continued because the admission of the lunatic had been refused for some other cause than want of room, and it further appears in such certificate, that the jailer complied in due time with the provisions of section thirty-one of this chapter.

Ibid § 35,
as amended
1883, ch. 39.
Allowance to jailer.

37. When the same attendant, nurse, or physician is employed to attend the sick in any jail, as well lunatics as others, the court shall apportion the allowance therefor, so as to ascertain how much is to be allowed for each lunatic.

Ibid § 36.
Allowances to nurses and physicians.

38. If a person be found to be insane by the justice before whom he may be examined, or in a court in which he may be charged with crime, as aforesaid, the circuit court of the county of which he is an inhabitant shall appoint a committee for him.

Ibid § 37.
Committee of a lunatic.

39. If a person residing in this state, not so found, be suspected to be insane, the circuit court of the county of which such person is an inhabitant shall, on the application of any party interested, and after five days' notice to the person so suspected, proceed to examine into his state of mind, and being satisfied that he is insane, shall appoint a committee for him.

Ibid § 38,
as amended
1882, ch. 67.
Inquest.

40. If a person residing out of the state, but having property therein, be suspected to be insane, the circuit court of the county wherein the said property or the greater part of it is, shall, upon like application, and being satisfied that he is insane, appoint a committee for him.

Ibid § 39.
Same.

41. The court making such appointment shall take from such committee a bond in such penalty as it shall deem sufficient; and in the case of a lunatic sent to the hospital or committed to jail, the clerk of the court shall, within one month thereafter, transmit to the auditor a certified copy of such bond, and of any order of the court in relation to such lunatic or his estate; and in one month after such lunatic may be admitted into the hospital, the clerk shall send copies of the said bond and orders to the directors thereof. If any person appointed committee of a lunatic refuse the trust, or fail, at or before the term succeeding his appointment, to give bond as aforesaid, the court, on the motion of any party interested, may appoint some other person committee, taking from such committee bond as aforesaid, or shall commit the estate of the lunatic to the sheriff of the county, who shall be the committee, and he and his sureties in his official bond bound for the faithful performance of the trust.

Ibid § 40.
Bond of committee.

42. The committee of an insane person shall be entitled to the custody and control of his person (when he resides in the state, and is not confined in the hospital or jail,) shall take possession of his estate, and may sue and be sued in respect thereto, and for the recovery of debts due to or from the insane person. He shall take care of and preserve such estate, and manage it to the best advantage; shall apply the personal estate, or so much as may be necessary, to the payment of the debts of such insane person; and the rents and profits of the residue of his estate, real and personal, and the residue of the personal estate, or so much as may be necessary, to the maintenance of such insane person, and of his family, if any; and shall surrender the estate, or so much as he may be accountable for, to such insane person in case he shall be restored to sanity, or the real estate to his heirs or devisees, and the personal estate to his executors or administrators, in case of his death without having been so restored to sanity.

Ibid § 41.
Powers and duties of committee.

43. If the personal estate of such insane person be insufficient for the discharge of his debts, or if the personal estate, or residue thereof, after payment of the debts, and the rents and profits of his real estate, be insufficient for his maintenance and that of his family, if any, the committee of his estate may petition the court by which he was appointed, for authority to mortgage, lease, or sell so much of the real estate of such insane person as may be necessary for the purposes aforesaid, or any of them; setting forth in the petition the particulars and amount of the estate, real and personal, the application which may have been made of any personal estate, and an account of the debts and demands existing against the estate.

Ibid § 42.
Sale of real estate.

44. On the presenting of such petition, it shall be referred to a commissioner in chancery, to inquire into and report upon the matters therein contained; whose duty it shall be to make such inquiry, to hear all parties interested in such real estate, and to report thereon with all convenient speed.

Ibid § 43.
Reference to commissioner.

45. If, upon the coming in of the report and examination of the matter, it shall appear to the court to be proper, an order shall be entered for the mortgage, leasing, or sale (on such terms and conditions as the court may deem proper), of so much of the said real estate as may be necessary. But no conveyance shall be executed until the sale shall have been confirmed by the court. The proceeds of sale shall be secured and applied under the order of court.

Ibid § 44.
Order of court.

46. The expenses of an insane infant (not paid by his committee), or married woman, incurred in his or her removal, maintenance, or care, shall be paid, within the time specified in the preceding section, to the treasurer of the hospital or into the public treasury, as the case may be, by the guardian, if there be one who has sufficient funds in his hands, or if no guardian, having sufficient estate of such infant, then by his father, or if no father, by his mother, and by the husband of an insane woman.

Ibid § 46.
Expenses of insane infant.

47. The compensation of the justices, physicians, and witnesses employed in the examination of a person charged with being a lunatic shall be such as may be prescribed by the county court of the county in

Ibid § 52,
as amended
1882, ch. 67.
Expenses of examination

and commit-
ment. which the examination is had, and be paid out
of the county treasury.

48. The word "lunatic," whenever it occurs in this chapter,
Ibid § 51. shall be construed to include every insane person
"Lunatic"
defined. who is not an idiot.

49. The words "insane person" include every one who is an
Ch. 114, § 17, idiot, lunatic, non compos, or deranged.

50. If any person charged with or convicted of crime be
Ch. 108, § 22. found, in the court before which he is so charged or
Persons
charged with convicted, to be a lunatic, and such court shall order
crime. him to be confined in the hospital, he shall be re-
ceived and confined if there be, or so soon as there is, a vacancy
therein. The sheriff or other officer of the court by which the
order is made, shall immediately proceed in the manner di-
rected by the fourteenth section of this chapter to ascertain
whether such vacancy exists; and until it is ascertained
that there is a vacancy, such lunatic shall be kept in the jail of
such court.

51. Where any lunatic is to be discharged from the peniten-
tiary, or when any convict becomes hopelessly insane,
Ibid § 53. before his or her term of sentence expires, it shall be
Insane con-
victs in peni-
tentiary. the duty of the superintendent to notify a justice of
Marshall county, of the time that such discharge will be made,
or that such convict is considered to be hopelessly insane,
when it shall be the duty of the justice to whom such infor-
mation is given to proceed with such person as provided for
under chapter fifty-eight of the code of West Virginia, relating
to persons suspected of lunacy.

52. When a person in jail, on a charge of having commit-
Ch. 64, § 13. ted an indictable offense is not indicted by reason
When acquit-
ted on ground of his insanity at the time of committing the act,
of insanity ;
commitment. the grand jury shall certify that fact to the court ;
whereupon the court may order him to be sent to the hospital
for the insane of the state or to be discharged.

53. No person shall, while he is insane, be tried for a crim-
Ch. 56, § 9. inal offense.

54. If a court in which a person is indicted for a criminal
Ibid § 10. offense, see reasonable cause to doubt his sanity at
Persons al-
leged or found the time at which, but for such doubt he would be
to be insane. tried, it shall suspend the trial until a jury inquire
into the fact of such sanity. Such jury shall be empaneled

at its bar. If the jury find the accused to be sane at the time of their verdict they shall make no further inquiry, and the trial in chief shall proceed. If they find that he is insane they shall inquire whether he was so at the time of the alleged offense. If they find that he was so at that time the court may dismiss the prosecution, and either discharge him or to prevent his doing mischief, remand him to jail, and order him to be removed thence to the hospital for the insane. If they find he was not so at that time, the court shall commit him to jail, or order him to be confined in said hospital until he is so restored that he can be put upon his trial.

55. If, after conviction and before sentence of any person, the court see reasonable ground to doubt his sanity, it may empanel a jury to inquire into the fact as to his sanity, and sentence him, or commit him to jail, or to the hospital for the insane, according as the jury may find him to be sane or insane.

Ibid § 11.
Insanity after conviction.

56. When the board of directors of the hospital for the insane shall give notice to the clerk of the court, in pursuance of the twenty-sixth section of chapter fifty-eight, such clerk shall issue a precept to the officer of said court, requiring him to bring the said prisoner from the hospital and commit him to jail.

Ibid § 12.
Notice by directors of hospital.

57. When a prisoner is so brought from the hospital and committed to jail, or when it is found by the verdict of another jury, that a prisoner, whose trial or sentence was suspended by reason of his being found to be insane, has been restored, if convicted he shall be sentenced, and if not, the court shall proceed to try him, as if no delay had occurred on account of his insanity.

Ibid § 13.
Insane person restored.

58. When a person tried for an offense is acquitted by the jury, by reason of his being insane, the verdict shall state the fact; and thereupon the court may, if it deem him dangerous, order him to be committed to jail until he can be sent to the hospital for the insane.

Ibid § 14.
Acquitted by reason of insanity.

59. When any person confined in the hospital, charged with crime, and subject to be tried therefor, or convicted of crime, shall be restored to sanity, the board shall give notice thereof to the clerk of the court by whose order he was confined and deliver him in obedience to the proper precept.

Ch. 108, § 28.
Criminal restored to sanity.

WISCONSIN.

STATE BOARD OF CHARITIES AND REFORM.

1. Creation, term of office, vacancies.
2. Annual meetings.
3. Secretary, duties; other officers.
4. Inspections of asylums; board, when reorganized.
5. Necessary expenses refunded.
6. Powers and duties of board, annual report.
7. Facilities for examination to be afforded.
8. Transfer of insane soldiers to national asylum.

STATE BOARD OF SUPERVISION.

9. Creation; to have the powers formerly exercised by boards of trustees.
10. Oath of office.
11. Term of office, vacancies.
12. Regular meetings.
13. Compensation of members.
14. To be commissioners of lunacy.
15. Powers of board.
16. Duties of board.
17. Secretary, duties.
18. Salaries and bonds of officers.
19. Steward, duties.
20. Monthly estimates.
21. Accounts of purchases.
22. Warrants, how drawn and paid.
23. Money for benefit of patient, disposition of.
24. Superintendent of asylums, duties, statistics.
25. Reports of asylums to board.
26. Inspection of asylums by board; visiting committee by legislature.
27. Annual report of board.
28. Annual statistics.
29. Laws applicable to board.
30. Appeals from decision of board.
31. Time in which appeal may be taken, notice.
32. Proceedings on appeal.
33. Costs borne by losing party.

GOVERNMENT OF ASYLUMS.

34. Titles of asylums.

35. Superintendent, oath, duties, exemption from subpoenas.
36. Appropriation of land for use of public institutions, appointment of commission.
37. Oath of commissioners; notice to owner, how served.
38. View of lands, report, appeal.
39. State institutions to purchase each others manufactures.
40. Treasurer's bonds.
41. Officers of asylums to be a police force.
42. Decennial census of insane, duties of county clerk.
43. Cruelty to patients, penalty for.

ADMISSION OF PATIENTS.

44. Counties entitled to patients in ratio of population; provisions for patients without settlement.
45. Settlement, how ascertained.
46. Error in accounts, how corrected.
47. Non-residents, removal.
48. Idiots not admitted.
49. Investigation, physician's report.
50. Commitment by judge.
51. Physician's report, additional statement.
52. Rehearing, when allowed.
53. Proceedings on rehearing.
54. Discharge on proof of sanity.
55. Harmless imbeciles not admitted.
56. Circuit court to have powers of county court, proceedings filed.
57. Warrant of commitment, by whom executed.

SUPPORT AND DISCHARGE.

58. Resident patients, support by state.
59. Clothing required for admitted patients.
60. Children born in hospital, disposition of.
61. Habeas corpus, proceedings on.
62. Discharge to care of friends; selection of patients for discharge.
63. Notice of discharge to county judge, execution of warrant.
64. Discharged patients supplied with clothing and money.

- 65. Recovery of charges for patients.
- 66. Reimbursement of counties.
- 67. Fees of sheriff and witnesses.
- 68. Confinement of dangerous indigent insane.

COUNTY ASYLUMS.

- 69. Establishment, provisions for.
- 70. Proceedings of board of county supervisors.
- 71. Plans and specifications.
- 72. Board of trustees, reports.
- 73. Transfer from state asylum to county; acute insane, transfer to state asylum.
- 74. Insane without settlement, regulations for admission.
- 75. Insane of other counties, when received.
- 76. Cost of buildings.
- 77. State to bear one-half of cost, limit of cost.
- 78. Cost of buildings, liability of county.
- 79. Warrants for reimbursement of counties by state.
- 80. County asylums subject to laws governing state asylums.
- 81. Counties may use buildings already erected.
- 82. Chronic insane, expenses of support, how borne.
- 83. Insane cared for by county, certified to secretary of state.
- 84. Removal to county asylums.
- 85. Transfer to county asylum from other counties.
- 86. Counties not entitled to reimbursement, unless patient lawfully committed.
- 87. Laws for support of poor applicable to insane.

- 88. Vacancies in board of trustees, how filled.
- 89. Appropriations for support to be made by county supervisors.
- 90. Support of insane, liability of estate, proceedings to compel payment.
- 91. Selection by counties of patient to be returned.
- 92. Appropriation.

PRIVATE ASYLUMS.

- 93. Corporations for establishment of asylums, powers.
- 94. Powers to receive endowments.
- 95. Commitment to such asylum.
- 96. Discharge of patients in arrears.
- 97. Voluntary patients.
- 98. Habeas corpus; investigation of charges by board of supervisors.
- 99. Exemption of officers from prosecution.
- 100. Correspondence to be unrestricted.
- 101. Inspection by board of supervisors.
- 102. Reports of asylums.
- 103. Exemption of property from taxation.

CRIMINAL INSANE.

- 104. Insanity to be pleaded specially, discharge on recovery.
- 105. Transfer to asylum.
- 106. Resumption of proceedings on finding of sanity.
- 107. Investigation of insanity, proceedings, transfer to asylum.
- 108. Convicts, investigation of insanity, transfer to asylum; on recovery remanded to prison.
- 109. Insane convicts transferred to Milwaukee asylum; on recovery remanded to prison.

1. To secure the just, humane and economical administration of public charity and correction, there is constituted a state board of charities and reform composed of five members. Their term of office, beginning with the first day of April in the year of appointment, shall be five years and until their respective successors are appointed, and they shall continue as at present arranged, so that the term of office of one member shall expire each year. The governor shall fill all vacancies by appointment; but in case of a vacancy before the expiration of a term, the appointment shall be for the residue of such term only. All such appointments shall be confirmed by the senate.

R. S. of 1878,
and Supplement of 1883,
§ 561.
Members of
board; term
of office; va-
cancies.

2. The board shall meet annually in April on or before the fifteenth day, and in January on or before the tenth day, and at such other times and at such places as may be fixed by their by-laws or otherwise appointed by them.

§ 562.
Meetings.

3. The board shall appoint a qualified elector as secretary, whose term of office shall be three years, and until his successor is appointed and qualified, unless sooner discharged by the board. A certificate of appointment or discharge of any person as secretary shall be immediately filed by the board with the secretary of state. The duty of the secretary shall be to record all the transactions of the board and the proceedings of their meetings, to keep their books and papers, make such visits and perform such other duties as the board may prescribe. The board may appoint a president and other officers to serve without compensation, and fix their terms of office and prescribe their duties.

§ 563.
Secretary;
his duties.

4.* The * * * * state board of charities and reform, or some member, or the secretary thereof, are hereby required to visit each county insane asylum in this state at least once in each three months during each and every year, and may also designate some suitable person or persons to make visits thereto, whose expenses only may be audited and paid each year as herein provided to audit bills for clerical assistance, and out of the amount of money herein appropriated, and it is hereby made the duty of the governor to re-organize the said state board of charities and reform whenever, in his opinion, to do so would increase its efficiency and harmony, and be beneficial to the interests of the people.*

§ 563 a.
Board to visit
county asy-
lums.

May designate
others to make
such visits.

Board may be
re-organized.

5. Each member and the secretary shall have refunded to him all expenses actually and necessarily made in the discharge of his official duty; and when the board shall have been specially directed in writing by the governor to make any investigation, each member shall receive five dollars for each day actually devoted to such duty. The amount of each account for such compensation or ex-

§ 564.
Necessary ex-
penses re-
funded.

* Placita marked with a star will be found in the Supplement, which also contains a reference to all sections in the Revised Statutes.

penses, stated in detail and verified by affidavit, the secretary's to be also approved by the president of the board, shall be audited by the secretary of state and paid out of the treasury. All stationery, blanks, printing, postage stamps, stamped envelopes and the like, necessary for the official use of the board or their secretary, shall be supplied to them in the same manner as to state officials. No other compensation whatever shall be paid any member of said board.

6. It shall be the duty of the board:

(1) To investigate and supervise all the charitable § 563. Duties of board as to state institutions. and correctional institutions supported or aided at all by the state, and all industrial schools, hospitals and asylums, which shall be organized or existing under chapter eighty-six* of these statutes, and to familiarize themselves with all the circumstances affecting their management and usefulness.

(4) To thoroughly inquire into and examine the condition of each of the institutions and establishments hereinbefore referred to, their methods of treatment, instruction, government and management of their inmates, the official conduct of all trustees, managers, directors, superintendents and other officers and employes of the same, the condition of the buildings, grounds, and all other property connected with or pertaining to the same, and, into all other matters and things pertaining to their usefulness and good management, and to recommend to such officers and employes such changes and additional provisions as they deem proper. General powers of examination.

(5) To cause visits to be made annually, or as may be necessary to each such institution or establishment, either by the members personally or their secretary.

(6) To make, whenever directed by the governor, special investigation into the past or present management, or anything connected therewith, of any such institution or establishment, comply with his directions therein, advise him of their progress from time to time, and upon completion thereof to report to him the testimony taken, the facts found by them and their conclusions thereon. Special investigations.

(7) To prepare, and as may be necessary to amend from

* "Of the Organization of Corporations." See, also, pl. 93, 94.

To prepare system of book-keeping. time to time, subject to the approval of the governor, a system or plan for keeping the books and accounts of the state charitable and correctional institutions, to be as nearly uniform as can be adapted to their different wants and necessities, and to see that such plans are adopted and followed by each such institution, and to prescribe the form in which institutions shall, in their annual reports, set forth a detailed statement of their receipts and expenditures for the year.

By-laws and rules. (8) To make such by-laws, rules and regulations, not incompatible with law, as shall be necessary for the convenient and proper performance of their duties.

Annual report. (9) To make and present to the governor, on or before the fifteenth day of December in each year, their annual report, in which they shall concisely state the condition of each charitable and correctional institution, supported or aided by the state, and their opinion of the appropriation proper to be made for each for the following year; the results of all their visits and investigations during the year in respect to each of the several matters herein charged upon them, and all important statistical information collected by them, properly tabulated, and such recommendations or suggestions as they may see fit to present respecting the subjects under their supervision; and their proceedings during the year, and a detailed statement of all expenditures made from the treasury by or on behalf of the board.

§ 596. Facilities for examination. 7. To enable the performance of the duties herein imposed, all trustees, managers, directors, superintendents and other officers or employees of the institutions and establishments aforesaid shall at all times afford to every member of said board and their secretary, unrestrained facility for inspection of and free access to all parts of the buildings and grounds and to all books and papers of such institutions and establishments, and shall give either verbally or in writing such information as the board may require; and if any such person shall offend against this requirement, he shall forfeit not less than ten nor more than one hundred dollars. Each member and the secretary is authorized to administer oaths and take the deposition of any person as a witness in any investigation; and the board may by vote authorize their secretary to cause testimony to be taken by any judge, justice

of the peace, or court commissioner, in the manner provided in the chapter on evidence. Upon an account thereof verified by the affidavit of the secretary or president of the board, all expenses of such investigations, including fees of officers and witnesses, shall be audited by the secretary of state and paid out of the state treasury.

8. Whenever it shall be brought to the notice of the state board of charities and reform that any insane person in either of the Wisconsin hospitals for the insane or elsewhere is legally entitled to receive care and support in the national hospital for insane soldiers, they shall take such measures as may be necessary to establish the fact, and when so established, they shall cause such insane person to be transported to said hospital for insane soldiers.

§ 567.
Power to remove insane soldiers.

9.* The governor, by and with the advice and consent of the senate, shall appoint five persons, citizens of Wisconsin, no two of whom shall be residents of the same congressional district, a state board of supervision of Wisconsin charitable, reformatory and penal institutions, who shall be a body corporate under and by said name, and shall have and possess all the powers, and may exercise all the functions of the several boards abolished by section one of this act.† Said board shall devote its entire time and attention to its duties, as provided in this act.

§ 567 a, sub. § 2.
State board of supervision to be appointed.

10.* Said board shall meet and organize within sixty days from the passage and publication of this act, and shall enter upon the discharge of its duties at the expiration of said sixty days. Each member of said board, before entering upon the discharge of his duties, shall take and subscribe an oath to support the constitution of the United States, the constitution of the state of Wisconsin, and honestly and faithfully to discharge his duties as a member of said board to the best of his ability, which oath shall be filed in the office of the secretary of state.

Sub. § 3.
Members to take oath.

11.* The members of said board shall hold office for the term of five years, except that the members first appointed shall go out of office, one in one, one in two, one in

Sub. § 4.
Terms of office.

† § 567 a, sub. § 1, here referred to, abolishes the board of trustees of the Wisconsin state hospitals for the insane.

three, one in four and one in five years from the date of appointment, the member to go out to be determined by lot. Appointments to fill vacancies occasioned by death, resignation or removal shall be for the unexpired term. Upon the expiration of any regular term, or the occurring of any vacancy, the governor shall appoint in like manner

Vacancies,
how filled.

as above.

12.* Said board shall be provided with a room in the capitol building at Madison, as its office, and shall hold thereat regular meetings for the transaction of business, at least once in each month; the board shall be furnished with all necessary furniture and stationery by the superintendent of public property, and also all necessary blanks, blank books and printing, by the commissioners of public printing.

Sub. § 6.
Office of board;
meetings,
when and
where held.

13.* Each member of said board shall receive a compensation of two thousand dollars per annum, and also all actual and necessary disbursements paid out in the discharge of the duties of his office. Said board shall also have power to expend a sum not exceeding two thousand dollars per annum, as salary for a secretary of said board, and for clerk hire. All accounts for salary, clerk hire, and disbursements, provided for in this act, shall be rendered under oath, and shall be audited and allowed by the board, and then drawn from the state treasury upon the warrant of the secretary of state, out of the funds appropriated to the said several institutions, in relative proportion, as near as may be, to the sums appropriated to each for current expenses, and the sums credited to each by the secretary of state, as herein provided.

Sub. § 6.
Compensation
of members
of board.

Secretary of
board.

Accounts how
audited.

14.* Said board shall act as commissioners of lunacy, with power to investigate and examine into, with or without expert assistance, the question of the insanity and condition of any person committed or confined in any lunatic hospital or asylum, public or private, or restrained of his liberty by reason of alleged insanity, at any place within this state, and shall take the proper and legal steps for the discharge of any person so committed or restrained, if in its opinion such person is not insane, or can be cared for after such discharge without danger to others, and with benefit to such person.

Sub. § 7.
Commission-
ers of lunacy;
their powers.

15.* Said board shall have power to fully investigate all complaints against any of the institutions above named, Sub. § 8.
Powers of
board. or against the official conduct or the management thereof; to send for books and papers; summon, compel the attendance of, and swear witnesses; and conduct, at any time, thorough investigation into the affairs of any such institution, in such manner as to it shall seem best. Any letter, communication or complaint addressed to such board, or to any member thereof, by any inmate, employe or subordinate officer in any of said institutions, shall be forthwith forwarded as addressed, without interference therewith, or the breaking of the seal, or the reading thereof by any officer or employe of such institution.

16.* The duties of such board shall be:

(1) To maintain and govern the Wisconsin state Sub. § 9.
Duties of
board. hospital for the insane, the northern hospital for the insane, the Wisconsin state prison, the Wisconsin industrial school for boys, the Wisconsin institution for the education of the blind, and the Wisconsin institution for the education of the deaf and dumb, and such other charitable, reformatory and penal institutions as may hereafter be established or maintained by the state.

(2) To carefully supervise and direct the management and affairs of said institutions, and faithfully and diligently promote the objects for which the same have been established.

(3) To preserve and care for the buildings, grounds and all property connected with said institutions.

(4) To take and hold in trust for the said several institutions any land conveyed or devised, or money or property given or bequeathed, to be applied for any purpose connected therewith, and faithfully to apply the same as directed by the donor, and faithfully to apply all funds, effects and property which may be received for the use of such institutions.

(5) To make, on or before October first in each year, full and complete annual inventories and appraisals of all the property of each of said institutions, which inventories and appraisals shall be recorded, and shall be so classified as to separately show the amount, kind and value of all real and personal property belonging to such institutions.

(6) To make such by-laws, rules and regulations, not incom-

patible with law, as it shall deem convenient or necessary for the government of the said institutions and for its own government, and cause the same to be printed.

(7) To visit and carefully inspect each of said institutions as often as once in each month, either by the full board or by some member thereof, and ascertain whether all officers, teachers, servants and employes in such institutions are competent and faithful in the discharge of their duties, and all inmates thereof properly cared for and governed, and all accounts, account books and vouchers properly kept, and all the business affairs thereof properly conducted.

(8) To fix the number of subordinate officers, teachers, servants and employes in each of said institutions, and prescribe the duties and compensation of each, and to employ the same upon the nomination of the respective superintendents and wardens.

(9) To promptly remove or discharge any officer, teacher, servant or employe in any of said institutions, who shall be guilty of any malfeasance or misbehavior in office, or of neglect, or improper discharge of duty.

(10) To annually appoint for the Wisconsin state hospital for the insane and for the northern hospital for the insane, for each, a superintendent, one assistant physician, a matron, a steward, and a treasurer; and for the institution for the education of the blind, and the institution for the education of the deaf and dumb, and the industrial school for boys, for each, a superintendent, a steward, a treasurer, and all necessary teachers; and for the state prison, a warden, a steward and a treasurer, who shall be the officers of said institutions respectively, and whose duties shall be fixed by said board, except as herein otherwise provided. * * * *

17.* Said board may employ a secretary, who shall be a competent and experienced bookkeeper, and such assistant bookkeeper or clerks as may be necessary. The secretary shall keep the books, records and accounts of the board, under such rules and regulations as the board may prescribe. He shall keep a clear, distinct and separate book account with all the several departments of the several institutions, including all items purchased or sold on account thereof, and the products thereof, with an estimate of the value

Sub. § 10.
May employ a
secretary.

His duties.

of all such products, in such manner as to always show the relative cost and expenditure on account of each such department, and the income thereof; and in case the income or profits of any one department shall be made to contribute to the income or support of any other department of any such institution, the same shall be made to appear upon the books of such board.

18.* The salaries of the officers of the said institutions, not now fixed by law, shall be prescribed by the board, which in no case shall exceed twenty-five hundred dollars per annum, except that the several treasurers aforesaid shall receive no salary. The several stewards and treasurers aforesaid, before entering upon the discharge of their duties, shall execute sufficient bonds to the state of Wisconsin, to be filed with the secretary of state, in such penal sum, and with such sureties, as the board may prescribe, conditioned for the faithful performance of their duties, and the faithful accounting for all moneys, or other property which may come to their hands, respectively, as such officers.

Sub. § 11.
Officers' salaries to be fixed by board.

Bonds to be given.

19.* The steward of each institution shall be the local business manager and purchasing agent of such institution, subject to the direction and the rules and regulations of the board. Under the direction of the board, and within the limits of the monthly estimates made by the board, he shall purchase all materials and supplies required to be purchased for the institution to which he belongs. He shall have the immediate charge of all books, accounts, papers and records relating to the financial management of the institution to which he belongs, and shall keep detailed accounts of all receipts and expenditures pertaining to the same. He shall be responsible for the safe keeping and economical use of all stores and supplies purchased for such institution. For all articles purchased he shall require bills. On the receipt of goods purchased, he shall carefully compare the articles received with the bills, and shall see that they are correct, as to quality, quantity and amount, charged therefor, and to every bill thus examined he shall attach a certificate, setting forth the fact that he has made such examination, and that he has examined the extensions and footings, and that the bill is in

Sub. § 12.
Duties of steward.

all respects just and correct. All said bills shall be laid before the board at its next meeting, for allowance, and no bill or account shall be audited by the board, or appropriation made therefor, which shall not first be so certified and presented. All materials and supplies shall be purchased at the lowest practicable price, and when economy of expenditure can be promoted thereby, such materials and supplies shall be purchased in quantity, or of the lowest bidder, in bulk, for all of said institutions, by the stewards of such institutions, and under such regulations as the board may direct.

20.* The board, once in each month, with the assistance of such of the officers of the several institutions as it may require, shall prepare an estimate for each institution, of the expenditures necessary to be made during the month next ensuing, and such estimate shall be made out in detail and certified, and filed with the secretary of the board, and a duplicate with the steward of each institution, respectively, and no member of said board, and no officer of either of said institutions, shall incur any liability without such estimate being first made. Said board shall also fix a regular time, as often as once in each month, for the auditing, and also for the issue of its warrants, for the payment of all accounts and charges against each of said institutions.

Sub. § 13.
Monthly estimates to be made.

21.* No accounts for purchases made shall be paid until the same shall have been audited by the board and an appropriation made therefor; and all such accounts when so audited and appropriated, shall be paid by an order or warrant on the treasurer of the institution for which the same has been appropriated, signed by the secretary and by the president of the board; and stubs of all such orders or warrants issued shall be preserved in the office of the board. No money for any purpose, shall be drawn from the treasurer, except upon such order or warrant of the board, and in the manner in this section prescribed; provided, however, that said board, in its discretion, may draw upon the treasurer of each institution, each month, and deliver and charge to the steward, a sum not exceeding one hundred dollars in any one month, which sum may be used by said steward for necessary and contingent expenditures not previously estimated; and all amounts so paid by the steward from said sum so drawn shall

Sub. § 14.
How accounts audited.

be reported to the board at its ensuing meeting, with the purposes for which the same was expended, and when so reported and allowed by the board, the same shall be credited to the steward; provided, further, that the aggregate amount due and payable monthly to the officers and employes of either institution, may be drawn from the treasury of said institution, on the order of said board, monthly, in one sum, and made payable to the steward of said institution, who shall disburse the same in amounts corresponding with the respective amounts entered on the monthly pay-roll previously approved by the board, filing full receipts for all amounts so paid.

22.* Whenever any estimate has been made for either of said institutions as provided in section thirteen of this act, the secretary of state shall draw his warrant upon the state treasurer for the amount of money so estimated to be required for disbursement during the ensuing month, in favor of the treasurer of each such institution, and such order shall be paid by such state treasurer to the treasurer of such institution.

Sub. § 15.
When secretary of state to draw warrant.

23.* All moneys or property paid or delivered to any officer or employe of either of said institutions for the benefit of any inmate thereof, shall be paid or transmitted to the steward of such institution, who shall enter the same upon the books of the institution to the credit of the person or persons for whose benefit the same was designed, and report the same to the board at its next regular meeting; and use and expend the same only under the direction and with the advice and approval of the superintendent or warden of such institution, for the benefit of the persons for whom the same was designed.

Sub. § 16.
Duty of steward when money paid for benefit of inmate.

24.* The superintendent of each hospital, under the direction of the board, shall have immediate supervision of the interior administration of the hospital in which he is employed, and he shall be personally responsible for the sanitary condition, care, health and treatment of the inmates thereof. He shall cause to be kept for the hospital, a daily record of each inmate. At as early a day in the month of June next as may be practicable, he shall report to the board the name, age and place of residence of each inmate, upon such day, together with a brief statement as to the

Sub. § 17.
Duty of hospital superintendent.

special form of insanity and physical condition of each of said inmates, and such other facts of value relating thereto as may be known to him. He shall also state, in said report, the name and place of residence of the guardian of each inmate, or of the person or county chargeable for his or her support. And he shall thereafter, on the first Monday of each month, report to the board such information as the board may require, with:

(1) The name, age, place of residence and date of admission of each person admitted as an inmate to the hospital during the next preceding month, with a brief statement of his or her mental and physical condition and form of insanity, and with the name and place of residence of the guardian or person chargeable for the support of such inmate.

(2) The name, age and residence of each inmate discharged or removed, during each month, the condition of such inmate when so discharged or removed, the reason for such discharge or removal, and the place, if any, to which such inmate was sent or taken.

(3) The name, age and residence of any inmate dying during the preceding month, the immediate cause of death, and the disposition made of the body.

(4) A statement of any unusual restraint or confinement to which any inmate was subjected, during such month, and of the necessity therefor.

(5) The name and particular service of each person discharged from service in such hospital, or quitting such service during such month, with the reasons therefor and the date thereof.

25.* Each of the institutions herein committed to the charge of the said board shall, by its proper officer, make monthly reports to such board, giving detailed and itemized accounts of all receipts and disbursements, and also showing the daily number of inmates, officers, teachers, servants and employes in each, and the wages paid to each such officer, teacher, servant or employe, and also an annual report on the first day of October in each year, giving a summarized statement of the management of each of said institutions, in every department, for the preceding fiscal year, ending on the thirtieth day of September.

Sub § 18.
Institutions
required to
make monthly
and annual
reports.

26.* The state board of charities and reform shall visit from time to time, and inspect the interior management of said institutions, and shall have access to all parts of either of said institutions, and to all inmates thereof. They may visit, inquire into and examine as to the condition and management thereof, and shall make such suggestions in writing as they may deem best to the state board of supervision having the above named institutions in charge, and shall include in their annual report to the governor any information and suggestions, reports relating to said institutions as they may deem proper. The governor shall also, after each election of members of the legislature, and before the first of December following, appoint a visiting committee of three, one from the members of the senate elect, and two from the members of the assembly elect, who shall visit each of the institutions above named before the assembling of the legislature. Said committees shall have the same powers as the state board of charities in regard to said institutions, and their actual expenses shall be paid by appropriations sufficient to meet the same.

Sub. § 19.
Visiting committee may be appointed.

Governor to appoint visiting committee from members of legislature.

27.* On or before the first day of December in each year, the board shall make report to the governor for the preceding fiscal year. Such report shall show the kind and estimated value of all the property of each institution at the commencement of such year; the kind and cost of all permanent additions and improvements during such year; the receipts of money during such year from all public sources; the receipts of money or property from all private sources for the benefit of inmates, and the disposition thereof; the amount and estimated value of all products of the farm, shop, and other sources of support and supply in the charge of said board, for each institution, and the cost and application thereof respectively; the number of inmates of each institution at the commencement and at the close of each such year, with the average number maintained in each institution during such year, with the average weekly cost of such maintenance for each such inmate, such cost to be based upon the total amount appropriated by the board for the support of each institution during such year, including all appropriations by the board for subsistence and repairs or renewals of property

Sub. § 20.
Board to report to governor annually.

together with the net value of all the products of the farm and garden, and the net value of all labor expended in the care and repair of the property of each institution, but not including the cost of permanent additions to property, or private contributions for inmates; and such report shall contain such further facts, relating to the financial condition of each said institutions, as said board may deem necessary for the information of the legislature, together with an estimate of expenses for the ensuing year. Such report shall be accompanied by such parts of the report of the superintendent and steward of each of the two insane asylums, the report of the warden and steward of the state prison, the report of the superintendent and steward of the institution for the education of the blind, the report of the superintendent and steward of the institution for the education of the deaf and dumb, and the report of the superintendent and steward of the industrial school for boys, as said board shall deem proper to lay before the governor; and the reports now provided by law to be submitted by the said several institutions, or by the officers thereof, to the governor, are hereby abolished.

28.* On the twentieth day of October in each year, the board shall file with the secretary of state a certified statement attested by the president and secretary of the board, setting forth the name of every inmate in either of the two hospitals, or in the industrial school for boys, at any time during the fiscal year ending on the thirtieth of September next preceding, for whose support, either in whole or in part, any county in the state is legally chargeable, the length of time for which such support is charged, and the amount due such hospital or industrial school from such county for the support of such inmate, stating separately the amount due for board and the amount due for clothing. The secretary of state shall, upon the receipt of such certified statement, charge to the respective counties the amount so due such hospital or industrial school from such counties, which amount shall be a special charge upon said counties respectively, and shall be certified, levied and collected with the state tax, and paid into the state treasury therewith. On the first day of January in each year, the secretary of state shall pass said amount to the credit of the proper hos-

Sub § 21.
Board to file
statement
containing
list of names
of inmates of
each institu-
tion.

pital or industrial school, for the use, maintenance and support of such hospital or industrial school, as provided by law. The board shall, at the time it is required to file such certified statement with the secretary of state, send by mail to the county clerk of each county so indebted, a duplicate of the statement so filed with the secretary of state.

29.* The provisions of section 3 of chapter 289 of the laws of Wisconsin for 1880,† shall be construed as applying to the board created by this act.

Sub. § 23.
Laws to
apply.

30.* Any party aggrieved by any decision or order of the state board of supervision of Wisconsin charitable, reformatory and penal institutions, made under chapter 229‡ of the laws of Wisconsin for the year 1881, may appeal therefrom to the circuit court of the county to which such insane person is alleged to be chargeable.

§ 567 b.
sub. § 1.
Appeal may
be taken from
decision of
board.

31.* Such appeal may be taken from any decision or order made by said board since the first day of October, A. D. 1882, or hereafter made; *provided*, that the appeal shall be taken in all cases within one year from the making of such decision or order. The same may be taken by service of a notice thereof upon all parties to the proceedings. It may be served upon the secretary or president of said board, upon the county clerk of any county which is a party in interest, and upon the attorney-general of the state, where the state is interested. Within twenty days after service of such notice of appeal, the secretary of said board shall transmit to the clerk of the circuit court to which the appeal is taken, all the original papers used upon the hearing before said board, together with a certified copy of all the proceedings, orders and decisions of said board. When a complete determination of the controversy cannot be had without the presence of other parties than those to the original proceeding, the court shall order such parties to be brought in; and to that end the court may make such order as it may deem fit and necessary in the premises. The proceedings shall be continued as may

Sub. § 2.
When must
be taken.

How taken.

Notice, how
served.

Papers to be
transmitted to
circuit court.

† § 172 of the Supplement, referring to standing appropriations.

‡ See § 590 a, pl. 45-47.

be necessary, and further proceedings had therein, as if such additional parties had been originally proceeded against.

32.* Such appeal shall be tried by a jury (unless the same is waived), as actions originally brought in said court, and shall be subject to the same rules of law and practice as govern ordinary jury trials in such court. The jury shall find a special verdict naming the county to which such inmate is chargeable, or whether chargeable to the state at large, and judgment shall be entered accordingly. The same right of appeal from such judgment to the supreme court shall be had as in other cases; and the said board upon rendition of final judgment shall alter or change the books of such hospital to correspond therewith.

33.* The prevailing party in the circuit or supreme court shall be entitled to costs as in other cases.

34. The hospital for the insane located near the city of Madison shall be known as "the Wisconsin State Hospital for the Insane;" and the hospital for the insane located near the city of Oshkosh shall be known as "the Northern Hospital for the Insane."

35.* The superintendent of each hospital shall, before entering upon the duties of his office, take and subscribe an oath faithfully and diligently to discharge the duties required of him by law and the by-laws of the board of trustees. He shall be chief executive officer of the hospital, and shall devote all his time and attention to his duties; he shall exercise entire control over all the subordinate officers; he shall employ all employes and assistants necessarily connected with the institution below the grade designated in the by-laws as officers; and may discharge any officer, assistant or employe at will, being responsible to the board for the proper exercise of that duty in regard to officers. The superintendent shall not be compelled to obey the subpœna of any court in any case, civil or criminal, if he shall file with the magistrate or clerk, his affidavit that to obey the same would be seriously detrimental and hazardous to the welfare of the hospital under his charge, except when an accusation of murder is to be tried; nor in such case, unless the judge shall make a special order therefor, and the subpœna with a memorandum

Sub. § 3.
How appeal
tried.

Sub. § 4.
Costs.

§ 580.
Name of in-
sane hos-
pitals.

§ 588.
Superintend-
ent's oath
and duties,
removal of
officers.

Exemption
from
subpœnas.

thereof indorsed thereon be served one week, before the time when he shall be required to appear; *provided, however*, that no person shall be entitled, in any case, to make and file such affidavit, exempting him from subpoena as aforesaid, who shall, upon tender of the usual fees of witnesses in courts of record, refuse to be present and to give his deposition at his office or usual place of business, or instead thereof, at his house or usual place of abode. *Provided, further*, that any person so present and giving his deposition at his office or usual place of business, or instead thereof at his house or usual place of abode, who shall be detained four hours from the time fixed for the taking of such deposition, or from the time to which the taking of the same may have been adjourned, may make affidavit that further detention would be seriously detrimental or hazardous to the welfare of the persons or business in or under his charge; and such affidavit having been made, the justice of the peace, court commissioner, notary public or other authorized officer before whom such deposition is being given, shall thereupon adjourn further proceedings thereon to a future day.

36. Whenever in the opinion of the proper board of trustees, regents, managers or directors of any of the charitable, educational, correctional or penal institutions of the state, the state shall require any lands for the use of the institution under their charge, and they shall be unable to agree with the owner upon the amount of compensation to be paid therefor, or when, by reason of the legal incapacity or absence of any such owner, or other sufficient cause, no such agreement or purchase can be made without delay, the judge of the circuit court of the county in which such lands, or any part thereof, are situated, may, upon application in writing of any such board, containing a description of the lands so required, appoint three disinterested persons, residents of such county, commissioners to appraise said lands. Ten days' notice of such application, containing a description of the lands required, shall be personally served upon the owner, or given by publication for three successive weeks in a newspaper published in said county. Upon such application, and upon a like notice of motion therefor, such judge may make an injunctive order restraining

§ 605.
How lands
taken for use
of public in-
stitutions.

Notice of ap-
plication and
order.

the owner or any other person from cutting or injuring any of the timber growing on the land required, or committing any other waste thereon, during the pendency of said proceedings, if it be made to appear that the destruction of said timber, or other waste, will seriously impair the value of such land for the uses for which it is required. A violation of such order shall be punishable in the same manner as the violation of an order made by a circuit judge at chambers.

37. The commissioners so appointed shall, before entering upon the discharge of their duties, take an oath that they will faithfully and according to the best of their ability examine the lands so required, and impartially estimate and appraise the value of the same.

§ 606.
Commission-
ers to take
oath.

They shall give at least five days' notice of the time when they will proceed to view and examine the lands required and determine the value thereof. Such notice may be served personally on the owner, or by leaving a true copy thereof at his place of residence, if within the state. If any owner be a minor, an idiot or an insane person, such notice may be served upon the guardian of such owner, if he have any such within this state; and in all other cases it may be served by publication thereof for at least three successive weeks, in a newspaper published in the county where such lands are situated.

Notice to land
owner.

38. The commissioners shall, at the time fixed in said notice, proceed to view and examine said lands, and estimate and determine the value thereof; and they or a majority of them shall make a report of their valuation to the circuit court of said county in writing under their hands, and file the same with the clerk within ten days after their appraisal. In case no appeal shall be taken from the report and valuation of said commissioners, a judgment may be entered thereon by said circuit court. Either party may appeal to the circuit court from such report and valuation within thirty days after the filing thereof with the clerk as aforesaid by filing in the clerk's office a written notice of appeal.

§ 607.
View, etc., of
lands; report
of commis-
sioners.

Thereupon, such appeal shall be considered pending in said court, in which the land owner shall be plaintiff and the state defendant; and all the proceedings in such action shall be taken in the manner provided in sections one thou-

Appeal.

sand eight hundred and forty-nine, one thousand eight hundred and fifty, and one thousand eight hundred and fifty-five, chapter eighty-seven* so far as applicable. The title to all lands so taken, upon payment of the compensation finally awarded shall vest in the state in fee simple.

39. The regents of the state university and of normal schools, and the officers of all other public institutions supported and maintained, in whole or in part, by the state, are required to obtain from the state prison at Waupun, or from some of the state institutions which manufacture the same of suitable quality, all chairs, office, household or other furniture, boots, shoes, buggies, carriages, wagons, sleighs, cutters, and all other goods, necessarily required for the use of the state university, state schools, hospitals, or other state institutions, or the inmates thereof, that shall or can be made or furnished by the said prison, or by any such other institution, giving to the proper officers of such institution vouchers therefor; and such officers shall furnish, and cause to be made and delivered, all such articles or goods so required of them that can be made or furnished by the said prison or other institution under their charge, and charge the same on its books to the state for and on account of the proper officer or institution procuring the same.

§ 608.
State institutions to purchase each others manufactures.

40. The trustees, managers or directors of any of the state charitable, correctional or penal institutions shall require their treasurer, or any other officer or other person having the possession or custody of any money or property belonging to the state, or any institution under their control or supervision, to give bonds, and from time to time renew the same, for the faithful accounting for such money or property, in such manner as they may prescribe.

§ 609.
Treasurers of institutions to give and renew bonds.

41. The superintendent, officers and employes of the Wisconsin state hospital for the insane, and the northern hospital for the insane, are hereby constituted police officers for their respective hospitals and the grounds connected with and belonging to the same, and are empowered to summarily arrest all persons within said hospitals and grounds who shall be guilty of any offense thereon

§ 609 a.
Officers to be police force for hospitals.

* Of the "Right of Eminent Domain."

against the laws of the state or of the rules and regulations of said hospitals, and to arrest any vagrants or idle persons who shall refuse to leave said hospital premises when requested so to do by any of said officers, and to take such offenders before any court of competent jurisdiction, and to cause proper complaint to be made against such offenders; and for such purpose said superintendent, officers and employes shall possess all the powers and authority of police officers and constables. Any person who shall be guilty of any noisy, boisterous, or disorderly conduct, or of fighting, immoderate drinking, drunkenness, indecent exposure of the person, lewd, wanton or obscene conduct, or vulgar and obscene language, or of any offense against the laws of the state or the rules and regulations governing said hospitals, within said hospitals or the grounds thereof, may be summarily arrested by said officers or employes, or any one of them, and on conviction for any such offense shall be punished by a fine of not less than one nor more than fifty dollars, or by imprisonment in the county jail not less than two nor more than sixty days; but if a different penalty or punishment is prescribed by law for any such offense, the same may be imposed instead of the penalty or punishment prescribed in this section.

42.* Each assessor shall, when making the annual assessment for the year 1885, and for every tenth year thereafter, ascertain and enter upon a blank prepared for that purpose and furnished by the secretary of state, the name and surname in full of each deaf and dumb person, blind person, insane person and idiotic person in his assessment district, the age, color, sex, occupation, and place of birth of such persons; whether such persons are educated or not; the names in full of their parents, the number of children of such parents, and what the relation of blood, if any existed, between such parents; and the number of deaf and dumb, blind, insane and idiotic children of such parents; and return the same to the county clerk at the time of completing the assessment-roll for said assessment district. The county clerk shall, on or before the first day of September in said years, transmit the same to the secretary of state, who shall compile and tabulate such returns, and include a summary statement thereof in his annual report for said years.

§ 1014, sub. § 1.
Assessors to
report as to
deaf and
dumb, etc.

Duty of
county clerk.

43.* Any officer or other person in charge of or employed in any hospital for the insane, poorhouse, state prison, jail, institute for the education of the deaf and dumb or blind, house of correction, industrial schools for boys or girls, or orphan asylum, who shall abuse, neglect or ill-treat any person confined therein, or an inmate thereof, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

§ 4389.
Abuse of person confined in asylum; penalty.

44. Patients shall be admitted from the several counties in the ratio of population, but each county shall be entitled to the admission of at least two, if desired. No county shall at any time have more than its just proportion of patients in the hospital, unless some other county has less than its proportion. But whenever, by the affidavits of the sheriff and chairman of the county board, it shall appear that the residence of a person lawfully adjudged insane is unknown, and cannot after due diligence be ascertained, such person may be sent by the county judge as provided in section five hundred and ninety-three, and received by the superintendent into the hospital as a patient from the state at large, and not be charged to the county as one of the number to which it is entitled. But such person shall be charged to the proper county when his proper residence shall have been ascertained.

§ 590
Admission of patients from counties in ratio of population.

When from state at large.

45.* Whenever any inmate, in either state hospital for the insane, shall be improperly charged to the state or to any county, the attorney-general, on behalf of the state, and the district attorney of such county on its behalf, may make written application to the board of trustees of state hospitals for the insane, for relief from charge. If known to the applicant, such application shall state the name of the county to which such inmate is chargeable, or if it be claimed that the state is chargeable therewith, it shall be so stated. The said board shall give to the attorney-general, or to the district attorney of the county so named, as may be proper, reasonable notice of such application, and of the time and place when it will be heard. The state or such county may appear and be heard in opposition to such application. Such application may be supported by affidavits and other proper evidence. If upon the hearing upon such

§ 590 a,
sub. § 1.
When patient improperly charged to state or county.

application the said board shall be satisfied that the relief asked for should be granted, it shall, by its order in writing, grant the same, and therein name the county chargeable with such inmate, if it shall find any county so chargeable. If it shall find the state chargeable it shall so set forth. From and after the making of such order such inmate shall be charged in accordance therewith; *provided*, that the county named in such order, if other than the county named in such application, may in like manner apply to said board for relief, as to such order and the burden thereby imposed. And in any such case the matter shall be heard and disposed of in the manner hereinbefore provided.

46.* In any case in which any error has been or shall be committed in the accounts between either state hospital for the insane and any county, for the support of any inmate of such hospital, or in the amount certified by the secretary of state to any county as the amount due and to be assessed upon such county on account of such support, and such error shall be made to appear from the certificate of the board of trustees of state hospitals for the insane, or from the certificate from the secretary of either of said hospitals, it shall be the duty of the secretary of state to correct such error, by charging to the state or to the proper county the support of such inmate properly chargeable to it or to such county, and by crediting the state or such county with such support when the same has been improperly charged to it or to such county, or improperly paid. The county so credited shall have the benefit of such credit, when such secretary of state shall certify to it the sum to be raised for its then next state tax; and the county so charged shall have the amount thereof certified to it, as an item of its state tax, when such secretary of state shall certify to it the sum to be raised for its then next state tax.

47.* Whenever it shall be found that any insane inmate of either of said hospitals is not a resident of this state, and that neither the state nor any county therein is properly chargeable for the support of such inmate, it shall be the duty of the state board of charities and reform to make inquiry as to, and, if possible, ascertain the residence of such inmate, and to communicate with the proper officers of

Sub. § 2.
Error in ac-
counts be-
tween hos-
pital and
county.

Sub § 3.
When inmate
not resident of
state.

the state, county, dominion or other political division of which such person may be found to be a resident, or in which he or she may be entitled to support, with respect to his or her return into the same; and if practicable, to cause such inmate to be removed from such hospital and transported to and to be delivered into the custody of the proper officer or officers of such state, county, dominion or other political division; *provided*, that the cost of the same shall not in any case exceed one hundred dollars, to be provided for, audited and paid from the funds of the hospital from which such inmate shall be removed, in the same manner that other bills are provided for, audited and paid.

48. No person idiotic from birth shall be admitted into either hospital for the insane; and no person shall be retained in either hospital, after, by a fair trial, ^{§ 591.} it shall have become reasonably certain that such ^{Idiots from birth not admitted.} person is incurably insane, if such person is retained to the exclusion of others whose cases are of a more hopeful character: *provided, however*, that no person confined in either of said hospitals, who shall have been committed thereto and is confined therein, under the order and commitment of any of the courts of record of this state, in or before which such person shall be under charge of or conviction of a crime punishable by imprisonment in the state prison and awaiting hearing, trial, conviction or sentence on account of alleged insanity, either at the time of the commission of such crime or at any time afterwards, shall be removed or discharged therefrom except upon the order of the court having jurisdiction of such person for hearing, trial, conviction or sentence as aforesaid.

49.* Whenever any resident of this state or any person found therein, whose residence cannot be ascertained, shall be, or be supposed to be, insane, application may be made in his behalf by any respectable citizen to the judge of the county court, judge of the circuit court, or any judge of a court of record in and for the county in which he resides, or, in case his residence is unknown, the county in which he is found, for a judicial inquiry as to his mental condition, and for an order of commitment to some hospital or asylum for the insane. The application shall be in writing, and shall specify whether or not a trial by jury is desired by ^{§ 593.} ^{Proceedings to determine insanity.}

Examination by physicians. the applicant. On receipt of said petition, the judge to whom it is addressed shall appoint two disinterested physicians of good repute for medical skill and moral integrity, to visit and examine the person alleged to be insane, and such physicians shall proceed without unnecessary delay to the residence of the person supposed to be insane, and shall, by personal examination and inquiry, satisfy themselves fully as to his condition, and report the result of their examination to the judge. Such report shall be substantially as follows:

- (1) What is the age of the patient?
- (2) Where was the patient born?
- (3) Present place of residence?
- (4) Married, single or widowed?
- (5) If children, how many, and the age of the youngest?
- (6) What has been the occupation of the patient, and the reputed pecuniary circumstances?
- (7) When were the first symptoms of the disease manifested, and what were they?
- (8) Is this the first attack? If not, when did others occur, and what was their duration?
- (9) What is the cause of this attack?
- (10) Is the disease increasing or stationary?
- (11) Are there rational intervals? If so, how often, and what is their duration?
- (12) Have any changes occurred in the condition of the body and mind since the attack?
- (13) On what subject or in what way is derangement now manifested? Are there any permanent hallucinations?
- (14) Has the patient shown any disposition to injure others? And if so, was it from sudden passion or premeditation?
- (15) Has suicide or homicide ever been attempted? If so, in what way? Is the propensity now active?
- (16) Has the patient any disposition to destroy clothing or other property?
- (17) Is there any disposition to filthy habits?
- (18) What treatment was pursued for the relief of the patient? Mention particulars and effects.
- (19) What is the present physical condition?
- (20) Has restraint or confinement ever been employed? If so, what and how long?

(21) Did the patient manifest any peculiarities of temper, habits, disposition or pursuits before the accession of the disease; any predominant passions, religious impressions, etc.?

(22) Was the patient ever addicted to the intemperate use of intoxicating drinks, opium or tobacco, or any improper habits?

(23) Has the patient ever had any injury on the head, paralysis, epileptic or other fits; any hereditary disease, suppressed eruptions, discharges or sores?

(24) What relatives, including grandparents and cousins, have been insane?

(25) Were the parents blood relations?

(26) To whom and where should letters be addressed in case of death, and need of clothing, etc.?

(27) State any other matter supposed to have a bearing on the case. If epileptic, state duration, and frequency of paroxysm.

Said physicians shall be entitled to a fee of three dollars each, and ten cents a mile for each mile necessarily ^{Fees.} traveled in complying with said order, to be paid by the county in which the supposed insane person resides. Upon the receipt of the report of the examining physicians, the judge may, if no demand has been made for a jury, make and enter his order of commitment to the hospital or asylum of the district to which the county belongs, or if not fully satisfied, he may make such additional investigation of the case as may seem to him to be necessary and proper, and at any stage of the proceedings and before the actual confinement of the person alleged to be insane, he, or any relative or friend acting in his behalf, shall have the right to demand that the question of sanity be tried by a jury, and when such demand is made, the judge shall forthwith enter an order for a jury trial. In case a trial by jury is demanded, the forms of procedure shall be the same as in trials by jury in justices' courts, and the trial shall be in the presence of the person supposed to be insane, and his counsel and immediate friends and the medical witnesses. All other persons shall be excluded.

State of Wisconsin, }
County of . } ss.

We, the undersigned jurors in the case of , having

heard the evidence in the case, are satisfied that the said
 is a fit person to be sent to a hospital or asylum for
 the insane.

If the jury find that the supposed insane person is sane, they shall simply so state by their verdict. In case the jury find by their verdict that the supposed insane person is sane, the judge shall forthwith enter an order for the discharge of such person. The verdict of said jury shall be recorded at length, together with an abstract of all such proceedings, in a book to be kept for that purpose by the said judge. The costs of the proceedings herein provided for shall be paid in like manner as provided by law in criminal trials in justices' courts; and the fees of every county judge acting hereunder shall be the sum of two dollars for each case heard before him without a jury, and five dollars a day for each jury trial. The said judge shall transmit to the hospital or asylum to which any person is so committed, the certificate or findings of the physicians provided for in this act.

50.* On the receipt by the county judge of the petition provided for by section one of chapter two hundred and sixty-six of the general laws of 1880,[†] such judge may, if in his opinion the public safety require it, deliver to the sheriff of his county an order in writing, requiring him forthwith to take and confine such insane or supposed insane person in some place to be specified, until the further proceedings provided for by said chapter can be had, or until the further order of the judge, and after the receipt by such judge of the report of the examining physicians provided for in said chapter, such judge may, in his discretion, deliver to such sheriff his order in writing, requiring him forthwith to take such person into custody, and keep him in some place to be specified, until the further order of such judge.

51.* The examining physicians provided for by section one of said chapter two hundred and sixty-six, in addition to the report required to be made by them by said section, shall state as follows: (28) Has the patient any infectious disease? (29) In your opinion, is he insane?

§ 593, a,
 sub. § 1.
 County judge
 may order in-
 sane person
 confined.

Sub. § 2.
 Report of ex-
 amining phy-
 sicians.

[†] Repealed, and supplied by § 593, pl. 49, *supra*.

52.* When any person shall be confined in any hospital, asylum, or other place of confinement upon commitment as an insane person, application may be made in his behalf by any respectable citizen having reason to question the propriety or justice of such confinement, to the judge of the county court of the county in which such person is confined, or to the judge of the county court by whom he was so committed, for a rehearing and a further judicial inquiry as to the mental condition of such person. Such application shall be by petition, setting forth the facts upon which it is founded.

Sub. § 3.
Rehearing in
behalf of per-
son commit-
ted to insane
asylum.

53.* Upon the receipt of such application, the judge shall have and may exercise the authority and jurisdiction in the matter of such application conferred by said chapter two hundred and sixty-six, as to the original commitment, and the same proceedings provided for in said chapter may be had in such matter. All the provisions of said chapter two hundred and sixty-six, necessary to such rehearing and further inquiry, to the full determination thereof, and including those relating to costs, fees and expenses, shall be applicable thereto.

Sub. § 4.
Proceedings
on rehearing.

54.* If, upon such rehearing and further inquiry, it shall be determined that the person so confined is sane, such judge shall make and enter an order requiring the officers or persons in charge of the hospital, asylum or place in which such person is confined, forthwith to set him at liberty, and such officers and persons shall comply with such order upon being served with a duly certified copy thereof; but if it shall be determined that such person is insane, no further action shall be taken upon such application.

Sub. § 5.
When person
is determined
to be sane.

55.* From and after the time this act shall take effect, no physically infirm or mentally imbecile person, not deemed to be dangerous when at large, shall be committed as an insane person to any hospital or asylum for the insane, solely because of such infirmity or imbecility.

Sub. § 6.
No infirm and
imbecile to be
committed.

56. All the powers vested in county judges by chapter 202 of the laws of 1881† may be exercised by and are hereby vested in any judge of the circuit court, any

§ 593 b.
Power vested
in judges.

† See §§ 593, 593 a, pl. 49-55, *supra*.

judge of a court of record in and for the county in which the supposed insane person resides, and such judges may act in all cases in which county judges may act under the provisions of said chapter 202 of laws of 1881, and do and perform all acts that county judges are authorized to perform by said chapter 202. All proceedings relating to the commitment of insane persons shall be filed with the county judge of the county in which said insane person resides, who is hereby required to keep a record book in which all applications for judicial inquiries, orders, judgments, commitments, shall be recorded, and shall be open to inspection as required for other records in the county judge's office.

57.* If any relative or friend, being of legal age and competent to perform the duty, of any person committed to any hospital for the insane, shall so request, the warrant for such commitment may be delivered to and executed by him, for which he shall be paid his necessary expenses, not exceeding the fees and expenses now allowed to sheriffs according to law; otherwise it shall be delivered to the sheriff, who, taking such assistants as the courts issuing such warrants may deem necessary, shall receive such insane person and convey him to the hospital.

§ 593 c.
Who may
convey insane
to hospital.

58. All insane persons, residents of this state, who may be admitted into said hospitals for treatment, shall be maintained therein at the expense of the state; but the county in which such patient resided, before being brought to the hospital, shall pay for all necessary clothing, when not otherwise supplied, and one dollar and fifty cents per week for the patient's support; and the relatives, friends or guardians of any patient shall have the privilege of paying his maintenance and clothing or any part thereof; and the accounts of such patients shall be credited with any sums so paid; and the relatives or friends may provide any patient with special care or a special attendant, as may be agreed upon with the superintendent, upon payment, quarterly in advance, of the charges and expenses thereof.

§ 595.
Resident pa-
tients main-
tained at
expense of
state.

59. The clothing to be furnished to each patient upon being sent to the hospital, shall not be less than the following: for a male, three new shirts, a new and substantial coat, vest, two pairs of pantaloons of woolen

§ 596.
Clothing re-
quired for
patients.

cloth, two undershirts, two pairs of drawers, three pairs of socks, a black or dark stock or cravat, two pocket handkerchiefs, a good hat or cap, a pair of new boots and shoes, and a pair of slippers. For a female, in addition to the same quantity of undergarments, shoes and stockings, there shall be two woolen and two white petticoats or skirts, three good dresses, two nightgowns, cloak or shawl, and a decent bonnet. Unless such clothing be delivered in good order, the superintendent shall not be bound to receive the patient; but he may receive and furnish them with proper clothing, charging the price thereof to the proper persons or county; *provided*, that in addition to the clothing required on admission, no county shall be liable for more than forty dollars for clothing for any one patient in one year.

60. If any female patient shall give birth to a living child while such female is an inmate of the hospital, ^{§ 507.} and has not been such inmate for more than nine ^{Children born in hospital, how disposed of.} months, such child shall be immediately removed from the hospital by her friends, or by the county in which she resided when admitted. The superintendent shall notify the county judge to make such removal, and if such child be not immediately thereafter removed, he shall make suitable provision for its care and comfort, and charge all expenses thereof to such county, and unless the same be paid, he shall include the amount due from such county for such purpose in his report to the secretary of state for collection, as provided in section six hundred and two.* Any county judge so notified, may remove such child in a similar manner to that provided in section six hundred.†

61. All persons confined in either hospital as insane patients, except persons charged with or convicted of crime, ^{§ 508.} and confined therein on the order of any court, as ^{Patients to have writ of habeas corpus.} provided in section five hundred and ninety-nine, shall be entitled to the benefits of the writ of habeas corpus, and the question of insanity shall be determined by the court issuing such writ; and if the court before whom ^{Proceedings on.} such case is brought shall decide that the person is insane, such

* See pl. 63, *infra*.

† See pl. 65, *infra*.

decision shall be no bar to the issuing of said writ a second time, if it shall be claimed that such person, not being so confined in pursuance of the order of any such court, has been restored to reason. The board of trustees shall have power, if it be alleged that any person is improperly confined in any hospital, as insane, to examine into such case in such manner as in their opinion its necessities demand; and if, after such examination shall have been carefully and critically made, aided by at least two skilled and experienced physicians, who shall have been designated by said board, it shall appear to them that such person is not insane, they shall issue an order for his immediate release, which shall be forthwith executed by the superintendent; except where such person has been committed to and is confined in either of said hospitals in pursuance of the order of a court in the cases provided in said section five hundred and ninety-nine, in which latter case the said board of trustees shall immediately notify the judge of the court from which such person was sent, and the district attorney of the proper county, of their said determination and finding; and it shall thereupon be the duty of such judge of such court to make an order for the removal of such person to the common jail of the county from which such person was sent to such hospital, to be detained in such jail until further dealt with according to law, or until discharged therefrom in pursuance of law.

§ 599.
Discharge of
patients on
application of
friends.

62. If the relatives or friends of any patient kept in the hospital shall ask the discharge of such patient, except in case of commitment as provided in this section, before such patient has recovered from insanity, the superintendent may, in his discretion, require a bond to be executed to the state of Wisconsin, in such sum and with such sureties as he may deem proper, conditioned for the safe keeping of such patient. The several courts of record in this state shall be authorized to commit for safe keeping and treatment to either hospital for the insane any person who shall be under charge of or convicted before such court of any crime punishable by imprisonment in the state prison and awaiting hearing, trial, conviction or sentence on account of alleged insanity at the time of the commission of such crime or at any time afterwards and prior to sentence.

Incurable and harmless patients shall be discharged whenever it is necessary to make room for recent or more hopeful cases, as ordered by the trustees, except in cases of persons under the charge of or conviction of crime as last aforesaid.

63. Whenever an order is made for the removal of a patient from the hospital, except when his friends are willing and ready to receive and remove him, the superintendent shall immediately give notice thereof to the county judge of the county from which said patient was sent; and, except when surrendered to a relative, the county judge shall issue his warrant to the sheriff of said county, which shall be substantially as follows:

§ 600.
Discharge of
incurables,
etc.
Superintend-
ent to notify
county judge
of order for
removal.

State of Wisconsin, County.
To the sheriff of said county.

Whereas, The proper authority has decided that a patient in the hospital for the insane, from this county, be removed from the hospital: You are therefore commanded forthwith to remove such patient and to return him to the poorhouse or jail in the county whence he was taken to the hospital.

Witness my hand and the seal of the county court of said county, this day of , A. D. 18 .

, County Judge.

Immediately upon receiving such warrant, the sheriff shall forthwith execute the same and return it to such county judge. If any county judge shall refuse or neglect for the space of five days, after receiving such notice, to issue and deliver to the sheriff such warrant, or if the sheriff shall refuse to receive the same, or neglect for twenty days after receiving it, to demand such patient, the superintendent may appoint some suitable person to remove such patient, at the expense of the county.

Execution and
return of war-
rant.

64. When any patient is discharged as cured, the superintendent shall furnish him with suitable clothing and a sum of money not exceeding twenty dollars, unless otherwise supplied, which clothing and money shall be charged to the county from which such patient was sent.

§ 601.
Discharge of
patient cured.

65. On the first day of October in each year, the superintendent shall send notice to the county clerks of the number of patients in the hospital from their coun-

§ 602.
Annual no-
tices to county
clerks and col.

lection of
charges to
counties.

ties respectively, and for whose support such counties are liable; and on or before said day the superintendent shall certify to the secretary of state the amount, not previously certified by him, due the hospital from the several counties separately, according to the provisions of this chapter, and the secretary shall pass the same to the credit of the hospital. The secretary shall thereupon notify the county clerk of each county so indebted, of the amount thereof, and charge the same to said county, and add the same to the next state tax to be apportioned to said county, to be collected therewith.

66. The several district attorneys, under the direction of the respective county boards, shall, in the name of the county, sue for and collect from the property of any patient maintained at the hospital at the cost of the county, or from any person legally bound to support such patient, the amount charged to such county for such support; and the certificate of the superintendent to the county clerk shall be presumptive evidence of the correctness of the amount due from such county to the hospital, for the maintenance and clothing of such patient.

§ 603.
Collection of
dues from
patients.

67. The sheriff shall be allowed the following fees: for arresting and bringing a person charged with insanity before the county judge and subpoenaing witnesses, the same fees as are allowed in other cases; for taking an insane person to the hospital or removing one therefrom, five cents per mile, going and returning, and the same for each assistant, and one dollar and fifty cents a day for the support of each patient on his journey to and from the hospital, and his actual expenses for the transportation of such insane person only; witnesses subpoenaed before the county judge the same fees as allowed by law in other cases; said fees and charges to be paid out of the county treasury.

§ 604.
Fees of sheriff.

Fees of witnesses.

68. Whenever it shall appear to the satisfaction of any county judge, by a petition of a majority of the supervisors of any town, of the common council of any city, or of the board of trustees of any village, containing a statement of all the facts in the case, that the public safety requires the close custody of any poor insane person, having a legal settlement in such town, city or village, such judge shall

§ 1528.
Confinement
of poor insane,
how effected.

make and deliver to the sheriff an order in writing, requiring him forthwith to take and confine such insane person, in some proper place, to be therein specified. Such insane person, when so confined, shall be subject to the directions of the said judge, and shall receive such care, attention and treatment as such judge shall deem proper and necessary. To be under direction of county judge.

All expenses incurred in confining, taking care of, and maintaining such person, when properly certified to by the county judge, shall be audited by the county board and paid out of the county treasury.

69. Whenever the total number of insane persons in this state shall exceed the total number of such persons § 604 a. When may be established. who can be conveniently and properly cared for in the state institutions for the insane already existing under the laws of this state, the board of supervisors of any county in this state, upon the conditions hereinafter named, may purchase, or otherwise provide a proper site, within said county, for the erection of a county asylum for the care of insane and inebriate persons, said site to contain not less than forty acres; and when said site shall have been approved by the governor, such board of supervisors may proceed, as hereinafter provided, to erect thereon suitable buildings for the proper care of a number of insane and inebriate persons, not less than thirty nor more than fifty per centum greater than the entire number of insane persons then belonging to such county, as such board of supervisors may determine.

70. Whenever the board of supervisors of any county shall determine to purchase a site and erect buildings for § 604 b. Proceedings to establish. an insane asylum as provided in the preceding section, it shall be the duty of the county clerk of said county to file with the governor and state board of charities and reform, a certified copy of the proceedings of such board of supervisors relating to such determination; but no county shall be authorized to purchase the site or erect the buildings specified in the preceding section until the governor and said state board of charities and reform shall have first ascertained and filed a certificate with the secretary of state that a necessity exists for such an additional asylum; and it shall be the duty of the governor and said board of charities and reform in such

case to make and file with the secretary of state such certificate as aforesaid, whenever it shall appear to the governor and said board that, for want of room or other cause, there is insufficient provision for the proper care of the total number of insane in this state in the hospitals previously existing under the laws of this state, and the asylums previously erected or proposed to be erected; but in making such certificate the governor and said board, as far as practicable, shall give preference to those counties containing the largest number of insane persons under public charge.

71. Before proceeding to the construction of such buildings the board of supervisors of any county proposing to erect such buildings shall cause to be prepared complete plans, drawings and specifications of the buildings proposed to be erected; which plans, drawings and specifications shall be submitted to the governor and state board of charities and reform for their approval, in respect to the number and sanitary care of inmates to be provided for; and after the approval of said plans, drawings and specifications by the governor and said board, said board of supervisors may adopt said plans, drawing and specifications, and proceed to contract for the construction of said buildings with the lowest bidder or bidders for all the work and material required therefor.

72. Upon the completion of said buildings, and their acceptance by the governor and state board of charities and reform, as aforesaid, the governor shall appoint three trustees, and the board of supervisors of said county two trustees, all of whom shall be resident citizens of the county in which said asylum is located, who shall constitute a board of trustees for the government of said asylum, and whose terms of office respectively shall be first determined by lot, and thereafter conform with the terms of office provided by law for the trustees of the state institutions for the insane. The treasurer of the county shall be the treasurer of said asylum, upon such conditions as the board of supervisors of said county may prescribe, and said board of trustees shall report to said board of supervisors as often as said board of supervisors may require, and also annually to the governor, the condition and wants of said asylum, and

§ 604 c.
Plans, etc., to
be submitted
to governor,
etc.

§ 604 d.
Trustees, how
appointed.

Reports to
county super-
visors.

also to the state board of charities and reform, a full and detailed statement of all receipts and expenditures on account thereof, and all other facts concerning the management and administration of said asylum.

73. Upon the completion of said county asylum and the organization of said board of trustees, as hereinbefore provided, said board is hereby authorized to transfer to said county asylum all inmates of the state institutions for the insane committed from or belonging to said county, held as chronic or incurable, and all insane inmates of the poor house of said county, and all other persons belonging to or residing in said county, and adjudged to be insane according to the laws of this state; and said board of trustees may thereafter receive into said asylum any inebriate person, and all persons belonging to said county adjudged to be insane under the laws of this state: *provided*, however, that whenever any such insane person, committed to said county asylum shall be found to belong to the class defined as acute insane, and to require permanent and special treatment for the purpose of cure, said person may be transferred to the state hospitals for the insane, and committed therein, in the same manner and on the same conditions as other patients are committed to said state hospitals.

§ 804 e.
Transfer of
inmates from
state to coun-
ty hospitals.

74. Said board of trustees of said county asylum may also receive into said asylum, under such regulations as said board may prescribe, any inebriate person and any person adjudged to be insane according to the laws of this state, not chargeable to any county in this state, for care and treatment at private charge: *provided*, that the care and treatment of such person shall be undertaken and maintained without extra expense to the state, or the county in which said asylum is located.

§ 804 f.
Inebriates,
how admitted.

75. Said board of trustees of said county asylum may also receive into said asylum, under such regulations as said board may prescribe, any inebriate or insane person belonging to any other county in the state, not admitted to the state institutions for the insane, for want of room or other reason; and such insane person so admitted shall be subject to the same provisions of law as insane persons belonging to the county in which such asylum is located: *pro-*

§ 804 g.
Inebriate and
insane from
other counties
how admitted.

vided, that the cost of maintaining such inebriate or insane person shall be apportioned to the county to which such insane person belongs, for the benefit of the county in which said county asylum is located, in the same manner and to the same extent as the inmates of state institutions are chargeable to the counties to which they belong under the laws of this state, and the balance of such cost to the state, in the same manner as other inmates of said county asylums are chargeable to the state, under the provisions of these statutes.

76. The cost of the buildings for any such county asylum shall not exceed the amount determined upon and appropriated therefor by the board of supervisors of any county in which said asylum is located.

77. Whenever any county as aforesaid shall have completed the construction of proper buildings for the purposes, and according to the conditions of these statutes, it shall be the duty of the trustees of such asylum to certify such fact to the secretary of state, together with a statement of the cost of such buildings; whereupon the secretary of state, in consideration of the amounts previously paid by said county in the construction of the state institutions for the insane, shall issue to said county his lawful warrant upon the state treasurer for the payment and return to said county of an amount equal to one-half the cost of said buildings for said county asylum: *provided*, that the amount so paid to any such county shall in no case exceed the sum of three hundred dollars per capita for the whole number of insane persons such asylum is designed to accommodate and provide for, such number to be estimated and determined by the governor and state board of charities and reform.

78. The entire cost of constructing and maintaining any such county asylum shall devolve upon the county in which the asylum is located, except as herein provided, and nothing herein contained shall be deemed to exempt said county from the payment of its proportion of the total cost of maintaining the state institutions for the insane already existing: *provided*, however, that any county maintain and supporting its own insane according to

the provisions of these statutes, in consideration thereof, shall be entitled to receive therefor the compensation hereinafter provided.

79.* As early as practicable in the month of July, 1881, and in the months of January and July every succeeding year, the secretary of state shall compute the aggregate amount which any county, maintaining a county asylum for the insane, shall be entitled to receive from the state on the basis of two dollars and seventy-five cents per week each, for all insane persons certified by the trustees of said asylum to have been maintained by such county at public cost, during the six months immediately preceding the first days of January and July, as aforesaid; and he shall thereupon draw his warrant for such aggregate amount, in behalf of said county, and shall deliver said warrant to the state treasurer, who shall thereupon place the amount of said warrant to the credit of said county on the books of the treasury. Such certificate shall be verified by the affidavit of the president and secretary of the board of trustees.

§ 804 k.
Duty of secretary of state.

80. All the laws of this state relating to the government and management of the state institutions for the insane, or to the appointments, duties, terms of office, proceedings and powers of trustees therefor, now existing or hereafter enacted, are hereby declared to be in full force and effect as to any county asylum for the insane organized under these statutes, so far as the same shall be applicable, and in harmony with the provisions of these statutes, relating to county asylums.

§ 804 l.
State laws applicable to county asylums.

81. Any county in this state, now owning a suitable and sufficient site and buildings for the care and maintenance of its own insane, may organize and maintain a county asylum under the provisions of these statutes, with the previous consent and approval of the governor and state board of charities and reform, as provided in other cases by these statutes, but without cost to the state for such site or buildings: *provided*, that nothing herein contained shall be construed to prevent any county in this state which now has buildings erected for the accommodation of the insane from enlarging the same, or from erecting new ones on any grounds belonging to the county or upon any site the county board of supervisors may by resolution determine.

§ 804 m.
County may use buildings now erected for asylums.

82.* Whenever it shall appear to the state board of charities and reform that insufficient provision has been made for the care and support of the insane in the state hospitals and county asylums previously established according to law, said board may file with the secretary of state a list of counties in which no county asylum exists, and which, in the opinion of said board, possess accommodations for the proper care of the chronic insane; and thereafter each of said counties so named, which shall care for its own chronic insane, under such rules as said board shall prescribe, on the properly verified certificate of said board to the secretary of state, shall receive the sum of one dollar and fifty cents per week for each person so cared for and supported, as hereinafter provided.

§ 604 n.
sub. § 1.
Support of the
chronic in-
sane in cer-
tain cases.

83.* On the first day of October in each year, the county superintendent of the poor, or other officer having charge of the poor of any county on said list, claiming compensation for the care of its chronic insane, shall certify to the secretary of state the names of all persons necessarily cared for and supported by said county at public cost, the date when said persons became insane, and the number of weeks each of said insane persons were cared for during the preceding year, making affidavit to the same; and if such certified statement shall be approved by said board of charities and reform, the secretary of state shall include the amount which such county shall be entitled to receive from the state under the provisions of this act, in the next state tax, and on the first day of February thereafter shall place said amount to the credit of said county.

Sub. § 2.
Insane cared
for by county
to be certified
to secretary
of state.

84.* Whenever, in the opinion of said board of charities or [and] reform, any county has not made suitable provisions for the proper and humane care of either its chronic or acute insane, the said board may direct the removal of either class of said insane to any county asylum, or to any other county possessing suitable accommodations therefor, for care or medical treatment, as the circumstances may seem to require; and said insane shall be so removed at the expense of the county to which they belong.

Sub. § 3.
When insane
may be re-
moved.

85.* Any county named in the first section of this act, possessing accommodations for a greater number of the chronic insane than reside in such county, may re-

Sub. § 4.
Transfer of
patients.

ceive such additional insane persons as the state board of charities and reform may direct to be transferred thereto from counties that do not possess accommodations for the proper care of their own insane, and may include all such persons in the list of insane certified to the secretary of state, as provided in the second section of this act, and shall receive from the secretary of state a credit to the amount of three dollars per week for each such person so received and cared for from another county, and for the amount necessarily expended for clothing said person; one dollar and a half of the aforesaid amount of three dollars per week, and the amount actually expended by such county for clothing such insane person, shall be charged by the secretary of state to the county from which such insane person was sent, and shall be included in the amount charged in the next state tax to said county.

86.* Nothing in this act shall be construed to entitle any county to compensation for the care and support of any person not previously adjudged to be an insane person and properly committed as such under the laws of this state relating to the commitment of insane persons to the hospital of this state, nor shall any county be entitled to compensation for the care and support of any insane person not lawfully and necessarily a public charge.

Sub. § 5.
When not entitled to compensation.

87.* Sections one thousand five hundred and two, one thousand five hundred and three, one thousand five hundred and four and one thousand five hundred and five of chapter sixty-three, revised statutes of 1878, relating to the relief and support of the poor, are hereby declared to be applicable to insane persons, in the same manner and to the same extent that they now apply to other classes unable to maintain themselves, described in section one thousand five hundred and two of said chapter.

Sub. § 6.
Laws for support of poor to apply.

88.* Whenever a term of office shall expire or a vacancy shall hereafter occur in the board of trustees of any county asylum, such term of office or vacancy shall be filled by appointment of some resident citizen of the county in which such asylum is situated, in the same manner and for the same length of time as is now provided in section 581 of chapter 32 of the revised statutes of 1878,† in respect to trustees for the government of state hospitals for the insane.

Sub. § 7.
Vacancies in board of trustees, how filled.

† Repealed, and supplied by § 567 a; see note to pl. 9.

89.* It shall be the duty of the board of supervisors of any
Sub. § 8.
Duty of
county board. county in this state in which any county asylum has
 been established for the care of the insane, to make
 sufficient appropriations quarterly in advance for the support
 and maintenance of said asylum, in accordance with the esti-
 mates of the board of trustees of said asylum, for an amount
 in the aggregate equal to the amount per capita provided by
 law to be paid to said county by the state for the support and
 maintenance of such asylum, with such additional amount as
 may be necessary for improvement of the grounds and build-
 ing, or such lesser sum as shall be equal to the estimates of
 said trustees for the purposes named; and such appropriations
 so made shall be paid for said purpose, on the order of said
 board of trustees, in such manner as said board may provide
 in its by-laws.

90.* The property and estate of any insane person, kept in
Sub. § 12.
Property of
insane person
to be liable for
his support. any state or county asylum, or kept by any county
 at public charge, under the provisions of this act,
 shall be liable for his support and maintenance,
 and chargeable for the payment thereof, and upon the failure
 of the person or persons having the charge or custody of such
 property or estate to pay therefrom for such support and
 maintenance, the board of trustees of the hospital or asylum,
 or the chairman of the board of supervisors of the county fur-
 nishing such support, may apply to the county judge of the
 proper county to compel such payment. In cases arising
Jurisdiction
and authority
of county
judges. under the provisions of this section, such county
 judge shall have the jurisdiction and authority con-
 ferred by chapter sixty-three† of the revised statutes
 and shall exercise such jurisdiction and authority in the man-
 ner provided by said chapter, and he may enforce obedience
 to his orders by proceedings as for a contempt. If any order
 or orders made by such judge requiring such payment shall
 not be complied with, either of the officers in this section de-
 signated, to wit: such board of trustees of any hospital or
 asylum, or the chairman of the board of supervisors of any
 county, may recover in an action against the person or per-
 sons having the charge or custody of such property or estate,

† Of the "Relief and Support of the Poor."

brought in the circuit court against him or them in his or their representative character, the amount directed to be paid by such order or orders, and any judgment so recovered may be satisfied out of such property or estate; such court may in its discretion direct that the costs in such action, if the plaintiff recovers judgment, be paid out of such property or estate or by the person or persons having the charge or custody thereof.

91.* Any county having chronic insane to be returned or delivered to it, under the provisions of this act, may select the persons to be so returned; such selection to be made in writing by the chairman of its board of supervisors, or the board of trustees of its asylum, and left, together with a proper receipt for the person or persons delivered, with the institution from which such person or persons shall be received.

Sub. § 13.
County may
select what
insane shall
be returned.

92.* There is hereby appropriated out of the state treasury, from any moneys not otherwise appropriated, a sufficient sum for the purposes of this act.

Sub. § 14.
Appropriation.

93. Any corporation formed under this chapter for the establishment and maintenance of any hospital, asylum or other institution for the care, maintenance and education of orphan children, or for the care and relief of sick or infirm or indigent persons, or for the refuge of homeless persons, or for any similar charitable purpose, may receive all such persons as shall be lawfully placed therein, and shall have and maintain the custody, care and control of such persons until lawfully discharged; and may contract with any person, county or municipal corporation for the maintenance, care and education of such children or persons as shall be proper, or recover from any person, county or municipal corporation responsible therefor, a reasonable price for the same, if no contract be made, not exceeding what is fixed by its by-laws and regulations. The officers of every such corporation shall cause all children or other persons, required so to be by contract or the terms of commitment, to be instructed in such branches of useful knowledge as may be suited to their respective years and capacities; and all females shall be especially taught domestic avocations, sewing, mending, knitting, and housekeeping in all its depart-

§ 1785.
Powers of
corporations
for maintenance of hospitals, asylums, etc.

ments, besides the common branches of education. Any clergyman in good standing shall be granted reasonable facilities, at proper times and places, freely to minister and impart moral and religious instruction, according to the usages of his church or denomination, to every inmate belonging to such church or denomination, or who shall desire him so to do. The proper officers designated by the by-laws may, in their discretion, at any time, discharge any such inmate when, in their judgment, it shall be for his interests or the interests of the corporation; or may give away for adoption, or bind out as an apprentice or servant, any child in their custody during its minority, and the provisions of chapter 110† shall apply to such minors so bound, the officers binding him, and the persons to whom bound. Every such corporation shall be subject to visitation by the state board of charities and reform to the same extent as state institutions and other charitable institutions.

94.* In the formation of any corporation under this chapter for the establishment and maintenance of any hospital, asylum or institution for the care, treatment or relief of insane or feeble-minded persons, or both, the articles of organization may contain provisions authorizing such corporations to receive general or special, permanent or temporary endowments, and to secure the repayment of the same in accordance with the terms and conditions upon which such endowments may be made, by a mortgage upon its property, real or personal, or both, or otherwise, in the manner in such articles provided.

95.* Any insane or feeble-minded person may, upon the written request of the guardian or any friend of such person, be committed to any such hospital, asylum or institution, in the same manner that insane persons are committed to the state hospital for the insane: *provided*, that the county in which such person resides shall be liable for the support, maintenance and treatment of such insane person only when such person has been committed to such hospital, asylum or institution upon the request of the board of supervisors of such county. In case of the commit-

§ 1783 a,
sub. § 1.
Corporations
for the relief
of the insane
and feeble-
minded.

Sub. § 2.
Commitment
of persons
thereto.

† Of "Masters and Apprentices."

ment of any insane or feeble-minded person to any such hospital, asylum or institution by the county judge, he shall issue his warrant substantially in the manner and form, and the same shall be executed as provided in the case of commitments to the state hospital for the insane.

96.* Such hospital, asylum or institution shall not be required to keep, care for or treat any insane or feeble-minded person longer than the guardian or friends of such person, or the county from which such person shall have been committed, shall defray the cost and charges for such care and treatment.

Sub. § 3.
Not required
to keep them
when costs are
not defrayed.

97.* Insane or feeble-minded persons may voluntarily place themselves under the care and treatment of such hospital, asylum or institution.

Sub. § 4.
Voluntary pa-
tients.

98.* All persons committed to or detained in any such hospital, asylum or institution, shall be entitled to the writ of habeas corpus as provided in section 598† of the revised statutes. If at any time complaint shall be made to the state board of supervision of Wisconsin charitable, reformatory and penal institutions, that any person is improperly confined in any such hospital, asylum or institution, such board shall have the power to examine into such case in such manner as they may deem best, and if upon such examination it shall appear to them that such person is improperly confined, they shall issue an order for the immediate release of such person, and, thereupon such person shall be immediately released from such hospital, asylum or institution.

Sub. § 5.
Habeas cor-
pus patients
entitled to.

State board of
supervision
may investi-
gate.

99.* Such hospital, asylum or institution or corporation owning or maintaining the same shall not, nor shall any officer or employe thereof, be liable for the detention of any person committed to such hospital, asylum or institution in pursuance of the laws of this state or of the laws of any other state, or detained at the request of the guardian or friends of such person, or of the board of supervisors of any county, unless such person shall have been so detained after said state board of supervision shall have issued its order for the release of such person; or after a court of

Sub. § 6.
Officers not to
be liable for
detention.

† See pl. 61, *supra*.

competent jurisdiction shall have directed the discharge of such person, and such liability shall exist then only for such detention as shall have occurred after the service of a copy of the order of such board, or of the order and direction of such court, upon the superintendent or other officer in charge of such hospital, asylum or institution.

100.* Any letter, communication or complaint addressed to such board, or to any member thereof, by any inmate, employe or subordinate officer in any such hospital, asylum or institution, shall be forthwith forwarded as addressed, without interference therewith, or the breaking of the seal, or the reading thereof by any officer or employe of such hospital, asylum or institution.

Sub. § 7.
Communica-
tions and letters
to be forwarded.

101.* Such board of supervision may, whenever they shall deem it best, visit such hospital, asylum or institution, and examine into the condition, care and treatment of the inmates of the same, and may make a report of such examination to the governor. Whenever such board or any committee or member thereof shall visit any such hospital, asylum or institution for the purpose aforesaid, it shall be the duty of the superintendent or other officer in charge of such hospital, asylum, or institution, to afford such board, committee or member, opportunity to make a full and complete examination into the condition, care and treatment of the inmates of such hospital, asylum, or institution.

Sub. § 8.
Board of super-
vision may
visit.

102.* Every corporation formed for the establishment and maintenance of any hospital, asylum or institution under this act, shall, on or before the first day of October in each year, make a report to said state board of supervision for the preceding year, which report shall be in form and substance as required by said state board of supervision, and shall be verified by the president of such corporation, or the superintendent or other officer having charge of such hospital, asylum or institution; and before any patient, whose place of residence is outside of this state, shall be admitted into any such institution, asylum or hospital, the board of trustees of such corporation shall execute a bond to the state of Wisconsin, in such sum, form, and with such sureties, as the governor of this state shall approve, conditioned to indem-

Sub. § 9.
Corporation
to report an-
nually.

nify the state of Wisconsin, and all parts thereof, against loss in case any such patient shall become a pauper in this state, which bonds shall be filed in the office of the secretary of state.

103.* The real and personal property of every corporation formed under this act for the care, treatment or relief of insane or feeble-minded persons, used exclusively for the care, treatment or relief of such persons, shall be exempt from taxation so long as the same shall continue to be so used; *provided*, that preference shall be given to the admission as patients, if residents of this state.

Sub. § 10.
Property to be
exempt from
taxation.

104.* When any person is indicted or informed against for any offense, and such person or counsel in his behalf shall, at the time and before the commencement of the trial, claim or pretend that such person, at the time of the commission of such alleged offense, was insane, and for that reason not responsible for his acts, the court shall order a special plea, setting up and alleging such insanity, to be filed on his behalf with the plea of not guilty; and the special issue thereby made shall first be tried by the jury selected and sworn to try said cause; and if such jury shall find upon such special issue that such accused person was so insane, or that there is reasonable doubt of his sanity at the time of the commission of such alleged offense, they shall also find him not guilty of such offense for that reason, and when such insanity is found the jury shall also find whether such accused person has recovered from such insanity and is of sound mind at the time of such trial; and if they find that he has so recovered and is of sound mind, then such accused person shall be discharged and go at large. If the jury shall be unable to agree upon a verdict on the trial of such special issue, the court shall for that reason discharge them from the further consideration of such special issue as such, and unless such special plea be withdrawn by such accused person or counsel in his behalf, the court shall forthwith order the trial upon the plea of not guilty to proceed, and the question of insanity involved in such special issue shall be tried and determined by the jury with the plea of not guilty. If on the trial of such special issue with the plea of not guilty, the jury find such accused not guilty for the reason that he was insane at the time of the commission of the alleged

§ 4607.
Insanity to be
a special plea;
if found, de-
fendant to be
discharged if
recovered.

offense, they shall also find whether such accused person has recovered from such insanity and is of sound mind at the time of such trial; and if the jury find that he has so recovered and is of sound mind, then such accused person shall be discharged and go at large. The presumption of such accused person's sanity, at the time of the commission of such alleged offense, shall prevail and be sufficient proof thereof on the trial of such special issue, whether the same be tried alone or with the plea of not guilty, unless the evidence produced on such trial shall create in the minds of the jury a reasonable doubt of the sanity of such accused person at the time of the commission of such alleged offense.

105. If the jury, upon the trial of such special issue, as is mentioned in the next preceding section, shall find that such accused person was insane, at the time of the commission of such alleged offense and shall, also, find that he is still insane, then the court shall order such insane person to be confined in one of the state hospitals for the insane; and, the superintendent of such hospital, shall receive such insane person, upon such order, and confine, and treat him, in such hospital, as other insane persons are kept and treated, or discharged, therein; and, the expense thereof, shall be borne by, and be a proper charge against the county, in which such insane person was indicted or informed against, for such offense; and such county may be reimbursed therefor, out of the estate or property of such insane person.

106. If upon the trial of such special issue as is mentioned and referred to in the two next preceding sections, the jury shall find that such accused person was not insane at the time of the commission of such alleged offense, then, his trial upon the plea of not guilty shall at once proceed before the same jury; and the finding of the jury upon such special issue, shall be final and conclusive upon the question of his insanity at the time when the alleged offense was committed; and no other plea or evidence thereon shall be allowed upon such trial, and the jury shall not again consider any matter embraced in such special issue, in determining the guilt or innocence of such accused person; and in no case, and at no time in the trial of such accused person, shall the question of the insanity of such person, at the time

§ 4098.
How defend-
ant disposed
of if still
insane.

§ 4099.
How defend-
ant tried, if
found not in-
sane on spe-
cial plea.

of the commission of such alleged offense, be considered or determined by the jury, otherwise than upon such special plea, setting up and alleging the same.

107. When any person is indicted or informed against for any offense, if the court shall be informed, in any manner, that there is a probability that such accused person is, at the time of his trial, insane, and thereby incapacitated to act for himself, the court shall, in a summary manner, make inquisition thereof, by a jury or otherwise, as it deems most proper; and if it shall be thereby determined, that such accused person is so insane, his trial for such offense shall be postponed indefinitely, and the court shall thereupon order that he be confined in one of the state hospitals for the insane, and the superintendent of such hospital shall receive such insane person upon such order, and confine and treat him in such hospital as other insane persons are kept and treated therein, and upon the recovery of such person from his insanity, the said superintendent shall notify the sheriff of the county in which such indictment or information shall be pending, of such recovery, and said sheriff shall thereupon take such accused person into his custody, and he shall be committed to the county jail of said county, or held to bail for his appearance at the next succeeding term of said court, for trial for such offense; but in case it shall be determined by the proper authorities of said hospital, that the insanity of such accused person is incurable, he shall then be treated and disposed of as other cases of incurable insanity, according to law.

§ 4700.
How defendant disposed of, if found insane at time of trial, and how inquired into.

108. Whenever it shall appear to the satisfaction of the governor, by the representation of the warden and directors of the state prison, that any person confined therein, in pursuance of a sentence of any court within this state, has become insane during such imprisonment, and is still insane, it shall be lawful for the governor to make inquiry thereof, and if he shall determine that such person has become, and is so insane, to make an order that such insane person be taken from said prison, and be confined and treated in one of the state hospitals for the insane, and upon his recovery from such insanity, if before the expiration of his sentence, that he be returned to said state prison, and

§ 4944
Proceedings when convict becomes insane.

it shall be the duty of the warden of said prison to deliver such insane person to the superintendent of such hospital, and such superintendent shall receive such person into such hospital, upon the presentation of such order and in obedience thereto; and the expenses of the same, when approved by the governor, shall be audited by the secretary of state and paid, upon his warrant, out of the state treasury.

109.* With the advice and approval of the governor, the state board of charities and reform may contract, at a price not exceeding four dollars and twenty-five cents per week, with the trustees of the Milwaukee county asylum for the insane, for the care and maintenance of convicts now insane, or who may hereafter become insane, or for the care and maintenance of any person who may be acquitted of any criminal charge on the ground of insanity; and when any such persons shall have been transferred to such asylum, they shall be maintained and cared for under such rules and regulations as the state board of charities and reform may prescribe. But in case any such person, transferred to said asylum, after conviction, from any prison in this state, shall become sane, said person shall be returned to the prison from which he he was transferred to said asylum, and be subject to the same conditions of his original commitment to said prison, time excepted, as if he had not been transferred to said asylum.

§ 604 n.
sub. § 9.
Insane convicts may be transferred to Milwaukee asylum.

WYOMING.

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21. Suspension of proceedings during insanity.
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1. If information in writing be given to the probate judge, that any person in the county is an idiot, lunatic, or person of unsound mind, or an habitual drunkard, and incapable of managing [his or her affairs], and praying that an inquiry thereinto be had, the court, if satisfied that there is good cause for the exercise of its jurisdiction, shall cause the facts to be inquired into by a jury.

Compiled
Laws of 1878,
ch. 79, § 1.
When information given.

2. Such information may also be given in the vacation of said court, to the judge thereof, in which event he shall call a special term of the court for the purpose of holding an inquiry, whether the person mentioned in such information be of unsound mind, * * * or not.

Ibid § 2.
Information
may also be
given in vacation.

3. In proceedings under this act, the probate court may, in its discretion, cause the person alleged to be of unsound mind, * * * to be brought before the court.

Ibid § 3.
Probate
court's power.

4. Whenever any judge of the probate court, justice of the peace, sheriff, coroner, or constable, shall discover any person resident of his county, to be of unsound mind, * * * (as in the first section of this act mentioned) it shall be his duty to make application to the probate court for the exercise of its jurisdiction, and thereupon the like proceedings shall be had, as in the case of information by unofficial persons.

Ibid § 4.
When to make
application to
probate
court.

5. If it be found by the jury that the subject of inquiry is of unsound mind, * * * and incapable of managing his or her affairs, the court shall appoint a guardian of the person and estate of such person.

Ibid § 5.
When court
shall appoint
guardian.

6. When any person shall be found to be insane, * * * according to the preceding provisions, the cost of the proceedings shall be paid out of his estate, or, if that be insufficient, by the county.

*Ibid § 6.
Costs, how
paid.*

7. If the person alleged to be insane, shall be discharged, the costs shall be paid by the person at whose instance the proceeding is had.

*Ibid § 7.
Same.*

8. The court may, if just cause appears at any time during the term at which an inquisition is had, set the same aside and cause a new jury to be empaneled to inquire into the facts, but when two juries concur in any case, the verdict shall not be set aside.

*Ibid § 8.
New jury to
be empaneled.*

9. If any person shall allege in writing, verified by oath or affirmation, that any person declared to be of unsound mind, * * * has been restored to his right mind, * * *; the court by which the proceedings were had, shall cause the facts to be inquired into by a jury.

*Ibid § 35.
If restored to
right mind.*

10. If it shall be found that such person has been restored to his right mind, he shall be discharged from care and custody, and the guardian shall immediately settle his accounts, and restore to such person all things remaining in his hands belonging or appertaining to him.

*Ibid § 36.
Discharge of
guardian.*

11. If any person, by lunacy or otherwise, shall be furiously mad, or so far disordered in his mind as to endanger his own person, or the person or property of others, it shall be the duty of his or her guardian, or other person under whose care he or she may be, and who is bound to provide for his or her support, to confine him or her in some suitable place, until the next sitting of the probate court of the county, who shall make such order for the restraint, support and safe keeping of such person as the circumstances of the case shall require.

*Ibid § 41.
Furiously
mad.*

12. If any person, as in the last preceding section is specified, shall not be confined by the person having charge of him, or there be no person having such charge, any judge of a court of record, or any two justices of the peace, may cause such insane person to be apprehended, and may employ any person to confine him or her, in some suitable place until the probate court shall make further order therein, as in the preceding section specified.

*Ibid § 42.
Who may
make order of
confinement.*

13. The expenses attending such confinement shall be paid by the guardian out of his estate, or by the person bound to provide for and support such insane person, or the same shall be paid out of the county treasury.

*Ibid § 43.
Who to pay
expenses.*

14. In all cases of appropriations out of the county treasury, for the support and maintenance, or confinement of any insane person, the amount thereof may be recovered by the county from any person who, by law, is bound to provide for the support and maintenance of such person, if there be any of sufficient ability to pay the same.

*Ibid § 44.
Amount re-
covered by
the county.*

15. In any county in this territory, when it becomes necessary to transport, or transport and provide for, any idiot, lunatic, insane, blind, deaf, deaf mute or criminal, to any eastern asylum, school or prison, it shall be the duty of the county commissioners of such county, upon proper and satisfactory representation to them, to apply to the governor for pecuniary or other aid in such case.

*Ch. 36, § 1.
Duty of com-
missioners.*

16. Then, if the governor approve the application, he is hereby authorized to call upon the auditor for a warrant upon the treasurer in favor of the board of county commissioners, sufficient for the purpose, and it shall be placed in the hands of the county commissioners, who shall be officially and personally responsible for the proper application of such fund, as far as they may be able.

*Ibid § 2.
Auditor's
warrant.*

17. Hereafter the responsibility for the care, transportation and maintenance of the pauper insane belonging to counties of this territory, and the cost of the same shall rest with and be assumed and paid solely by the county in which such person or persons shall be adjudged insane.

*Act of 1892,
ch. 53, § 1.
Care of in-
sane persons.*

18. Hereafter the responsibility for the care and maintenance of the pauper insane belonging to counties of this territory now confined at the "Iowa Hospital for Insane" at Mount Pleasant, Iowa, and elsewhere, and the cost of the same shall rest with the county in which such person or persons was adjudged insane, and from which such person or persons was sent as shown by the records in the office of the territorial auditor, subject, however, to the provisions of section three (3) of this act.

*Ibid § 2.
Counties re-
sponsible for
care of.*

19. A person shall be considered of sound mind who is neither an idiot nor lunatic, nor affected with insanity, and who hath arrived at the age of fourteen

*Ch. 35, § 3.
Person of
sound mind.*

years, or before that age, if such person know the distinction between good and evil.

20. A lunatic or insane person without lucid intervals, shall not be found guilty of any crime or misdemeanor, with which he may be charged; *provided*, the act so changed as criminal shall have been committed in the condition of insanity.

Ibid § 5.
Accountability.

21. A person that becomes lunatic or insane after the commission of a crime or misdemeanor, ought not to be tried for the offense during the continuance of the lunacy or insanity. If after verdict of guilty and before judgment pronounced, such person become lunatic or insane, then no judgment shall be given while such lunacy or insanity shall continue, and if after judgment and before execution of the sentence such person become lunatic or insane, then in case the punishment be capital, the execution thereof shall be stayed until the recovery of such person from the insanity or lunacy. In all these cases it shall be the duty of the court to empanel a jury to try the question whether the accused be at the time of empaneling insane or lunatic.

Ibid § 12.
If person becomes insane after commission of crime.

22. If any convict sentenced to the punishment of death, shall appear to be insane, the sheriff shall forthwith give notice thereof to a judge of the district court of the judicial district, and shall summon a jury of twelve impartial men to inquire into such insanity, at a time and place to be fixed by the judge, and shall give immediate notice thereof to the prosecuting attorney.

Ch. 14, § 176.
Insanity of convict.

23. The judge, clerk of the court, and prosecuting attorney, shall attend the inquiry. Witnesses may be produced and examined before the jury. The finding shall be in writing, signed by the jury. If it be found that the convict is insane, the judge shall suspend the execution of the convict until the sheriff shall receive a warrant from the governor of the territory, directing such execution. The finding of the jury and the order of the judge, certified by the judge shall be by the clerk entered on the journal of the court.

Ibid § 177.
Execution suspended.

24. The sheriff shall transmit immediately, a certified copy of such finding to the governor who may, as soon as he shall be convinced that the convict has become of sound mind, issue a warrant appointing a time for his execution.

Ibid § 178.
Findings.

FOREIGN LEGISLATION.

[NOTE.—The laws of England relating to insanity being voluminous, sections referring to subjects local or foreign to the purpose of this work have been omitted and their place supplied by the marginal notes. Sections so omitted are distinguished in the table of contents by italicized numbers. The plan of the following table has been changed from that adopted in other parts of the work, on account of the great length to which it would have extended, and the impossibility of any logical arrangement of the paragraphs without interfering with what has been thought more advisable, the retention of the chronological order of the laws.]

The Lunacy Laws of Germany and France, collated for this volume, were translated at Washington by an able linguist, who had access to all the foreign laws in the various government libraries, and who had the aid of prominent officials and the embassies there in the effort to procure full legislation; but they are not presented as complete. The briefer legislation of Belgium and Russia is, of course, but fragmentary.

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SAFE CUSTODY OF INSANE PERSONS CHARGED WITH OFFENCES.

39 & 40 Geo. 3, ch. 94; Chitty's Statutes, 3d edition, vol. 2, p. (5).

1. If any person indicted for any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully empanelled for that purpose, so that such persons cannot be tried upon such indictment, or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid to direct such finding to be recorded and thereupon order such person to be kept in strict custody until his majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be empanelled to try the insanity of such person, and if the jury so empanelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody, in such place and in such manner as to such court shall seem fit, until his majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for his majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to his majesty shall seem fit.

§ 2.
Insane persons indicted for offences.

Criminals found insane on trial, to be kept in custody until his majesty's pleasure be known.

PROVISION FOR SAFE CUSTODY OF CRIMINALS.

1 & 2 Vict., ch. 14; Chitty, vol. 3, p. 96.

2. In all cases where any person shall be in custody at the time of the passing of this Act under or by virtue of any warrant for commitment made or issued by any of her majesty's justices of the peace under the authority of the said hereinbefore recited provisions of the said Act of the thirty-ninth and fortieth years of his late majesty king George

§ 2.
Commitment to asylum.

the third, and hereby repealed, and if at any time after the passing of this Act any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime for which, if committed, such person would be liable to be indicted, it shall and may be lawful for any two justices of the peace of the county, city, borough, or place where such person shall be so kept in custody or apprehended to call to their assistance a physician, surgeon, or apothecary, and if upon view and examination of said person so in custody or apprehended, or from other proof, the said justices shall be satisfied that such person is insane or a dangerous idiot, the said justices, if they shall so think fit, by an order under their hands and seals, directed to the keeper of the gaol or house of correction, if in custody at the time of passing this Act, or if hereafter apprehended, to the constable or overseers of the poor of the parish, township, or place where such person shall be apprehended, shall cause the said person to be conveyed to and placed in the county lunatic asylum, provided that there be one situated within or belonging to the county, in which such person shall be in custody at the time of the passing this Act, or shall be hereafter apprehended, and if there be no such asylum, then to some public hospital, or some house duly licensed for the reception of insane persons; and it shall be lawful for the said justices to inquire into and ascertain by the best legal evidence that can be procured under the circumstances of personal legal disability of such insane person or dangerous idiot, the place of the last legal settlement of such person; and it shall and may be lawful for such two justices to make an order under their hands and seals upon the overseers or churchwardens of such parish, township, or place where they adjudge him or her to be legally settled, to pay all reasonable charges of examining such person, and conveying him or her to such county lunatic asylum, public hospital, or licensed house, and to pay such weekly sum for his or her maintenance in such place of custody as they or any two justices shall, by writing under their hands, from time to time direct; and where such place of settlement cannot be ascertained, such order shall be made upon the treasurer of the county, city, borough, or place

**Inquiry into
settlement.**

**Payment of
charges.**

where such person shall have been in custody or apprehended: Provided always that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from taking such insane person or dangerous idiot under their own care and protection, if he Commitment to custody of relatives.

shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two justices of the peace, or the court of quarter sessions, or one of the judges of her majesty's courts in Westminster hall: Provided always, that the churchwardens and overseers of the parish in which the justices shall adjudge any insane person or danger- Appeal.

ous idiot to be settled may appeal against any such order to the next general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice thereof to the clerk of the peace of the county, riding, or division; or to the town clerk of the city, borough, or place, as the case may be, upon whose rates the burden of maintaining such insane person or dangerous idiot might fall, if such order shall be invalid, and such clerk of the peace or town clerk shall be respondent to such appeal, which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine, in the same manner as appeals against orders of removal are now heard and determined.

3. If upon examination it shall appear to the physician, surgeon, or apothecary present at the examination § 3. Persons proved sane, to be liberated. of any person in custody at the time of passing this Act as aforesaid, that he or she is not an insane person or a dangerous idiot, and that such person may be suffered to go at large with safety, it shall and may be lawful for such medical person and he is hereby required to give a certificate to that effect, signed by him, to the visiting justices of the gaol or house of correction in which such person is in custody, who are hereby required to transmit the same forthwith to her majesty's principal secretary of state for the home department, who, if he shall so think fit, shall order the liberation of such person from custody.

4. [§ 4. Act not to alter laws relating to the discharge of recovered lunatics.]

CONFINEMENT AND MAINTENANCE OF INSANE PRISONERS.

3 & 4 Vict., ch. 54; Chitty, vol. 3, p. 98.

5. If any person, while imprisoned in any prison or other place of confinement under any sentence of death, transportation, or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour or to keep the peace or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices of the peace, or under any other than civil process, shall appear to be insane, it shall be lawful for any two justices of the peace of the county, city, borough, or place where such person is imprisoned to inquire, with the aid of two physicians or surgeons, as to the insanity of such person, and if it shall be duly certified by such justices and such physicians or surgeons that such person is insane, it shall be lawful for one of her majesty's principal secretaries of state, upon receipt of such certificate, to direct, by warrant under his hand, that such person shall be removed to such county lunatic asylum or other proper receptacle for insane persons as the said secretary of state may judge proper and appoint; and every person so removed under this Act, or already removed or in custody under any former Act relating to insane prisoners, shall remain under confinement in such county asylum or other proper receptacle as aforesaid, or in any other county lunatic asylum or other proper receptacle to which such person may be removed, or may have been already removed, or in which he may be in custody by virtue of any like order, until it shall be duly certified to one of her majesty's principal secretaries of state, by two physicians or surgeons, that, such person has become of sound mind, whereupon the said secretary of state is hereby authorised, if such person shall still remain subject to be continued in custody, to issue his warrant to the keeper or other person having the care of any such asylum or receptacle as aforesaid, directing that such person shall be removed back from thence to the prison or other place of confinement from whence he or she shall have been taken,

§ 1.
Investigation
of insanity.

Warrant for
commitment.

When sane,
remanded to
prison or dis-
charged.

or, if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged.

6. [§ 2. Justices of the peace to inquire into the settlement of such prisoner, and make orders on parish for maintenance, etc.

(a) When settlement not found, order to be made on treasurer on county.

(b) In case the person is possessed of property, it shall be applied towards the expense.]

7. [§ 3. Persons charged with misdemeanors, acquitted on the ground of insanity, may be kept in custody.]

8. [§ 4. Persons aggrieved may appeal from the order of the justices.]

9. [§ 5. Overseers or guardians may appeal against the order of the justices on the parish.]

10. [§ 6. Repeals fifty-fifth section of 9 Geo. 4, ch. 40.]

11. * * * It shall be lawful for such two justices, by order under their hands, to direct the overseers of § 7. Justices. the parish in which they shall adjudge such insane person as last aforesaid to be legally settled, or in case such parish shall be comprised in a union declared by the poor law commissioners, or shall be under the management of a board of guardians established by the poor law commissioners, then the guardians of such union or parish, as the case may be, to pay such weekly sum for the maintenance of such person as they or any such two justices shall, by writing under their hands, direct.

12. The words "insane person" shall be deemed to include any lunatic or dangerous idiot; and the words "county, city, borough, or place," shall be deemed § 8. Rules for interpretation of this Act. to include any county, riding, division, liberty, county of a city, county of a town, cinque port, or town corporate; and the word "parish" shall be deemed to include any township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor.

LUNACY ACT, CHAP. 100.

8 and 9 Vict., ch. 100; Chitty, vol. 3, p. 100.

13. [§ 1. Proviso that present visitors and clerk shall act under this Act till new ones are appointed; and that licences heretofore granted shall remain in force, unless, etc.]

14. [§§ 2-13. Appointment and organization of commissioners in lunacy.]

15. It shall be lawful for the commissioners (if and when they shall think fit) to grant a licence to any person to keep a house for the reception of lunatics, or of any sex or class of lunatics. * * * *

§ 14.
Powers and
jurisdiction
of commis-
sioners.

16. [§ 15. Commissioners to hold quarterly and special meetings for granting licences.]

17. [§ 16. Provisions for summoning special meetings.]

18. In all places not being within the immediate jurisdiction of the commissioners the justices for the county or borough assembled in general or quarter sessions shall have the same authority within their respective counties or boroughs to license houses for the reception of lunatics as the commissioners within their immediate jurisdiction; and that the said justices shall, at the Michaelmas general or quarter sessions in every year, appoint three or more justices, and also one physician, surgeon, or apothecary, or more, to act as visitors of every or any house or houses licensed for the reception of lunatics within the said counties or boroughs respectively; and such visitors shall at their first meeting take the oath required by this Act to be taken by the commissioners *mutatis mutandis*, such oath to be administered by a justice.

§ 17.
Licences
granted by
justices of the
peace, when.

19. In case at any time of the death, inability, disqualification, resignation, or refusal to act of any person so appointed a visitor as aforesaid, it shall be lawful for the justices of the county or borough, at any general or quarter sessions, to appoint a visitor in the room of a person who shall die, or be unable, or be disqualified, or resign, or refuse to act as aforesaid.

§ 18.
Visitor, filling
of a vacancy.

20. A list of the names, places of abode, occupations, or professions of all visitors appointed as hereinbefore is directed, shall, within fourteen days from the date of their respective appointments, be published by the clerk of the peace of the county or borough for which they shall be respectively appointed, in some newspaper commonly circulated within the same county or borough, and shall, within three days from the date of their respective appointments, be sent by the clerk of the peace to the commis-

§ 19.
List of visitors
to be pub-
lished.

sioners; and every clerk of the peace making default in either of the respects as aforesaid shall for every such default forfeit a sum not exceeding two pounds.

21. [§ 20. Every visitor being a physician, surgeon, or apothecary to be remunerated.]

22. [§ 21. Clerk of the peace, or some other person, to be appointed to be clerk to visitor; his duties and remuneration.]

23. [§ 22. Provision for assistance to the clerk of the visitors.]

24. No person shall be or act as a commissioner, or visitor, or secretary, or clerk to the commissioners, or clerk ^{§ 23.} or assistant clerk to any visitors, or act in granting ^{Persons disqualified from acting as commissioners.} any licence, who shall then be, or shall within one year then next preceding, have been directly or indirectly interested in any house licensed for the reception of lunatics, or the profits of such reception; and no physician or surgeon (being a commissioner), and no physician, surgeon, or apothecary (being a visitor), shall sign any certificate for the admission of any patient into any licensed house or hospital, or shall professionally attend upon any patient in any licensed house or hospital, unless he be directed to visit such patient by the person upon whose order such person has been received into such licensed house or hospital, or by the lord chancellor, or by her majesty's principal secretary of state for the time being for the home department, or by a committee appointed by the lord chancellor; and if any such commissioner or visitor, or secretary, or clerk to the commissioners, or clerk or assistant clerk to any visitors shall after his appointment be or become so interested in any house licensed for the reception of lunatics, or the profits of such reception, such commissioner, visitor, secretary, or clerk, or assistant clerk, as the case may be, shall immediately thereupon be disqualified from acting and shall cease to act in such capacity; and if any ^{Penalty.} person, being disqualified as aforesaid, shall take the office of commissioner, visitor, secretary, clerk, or assistant clerk, or being a commissioner, visitor, secretary, clerk, or assistant clerk, shall become disqualified as aforesaid, and shall afterwards continue to act in such capacity, such person shall be guilty of a misdemeanor; and if any physician or surgeon (being a commissioner), or any physician, surgeon, or apothecary (being a visitor) shall sign any certificate for the admis-

sion of any patient into any licensed house or hospital, or shall professionally attend any patient in any licensed house or hospital (except as aforesaid), such physician, surgeon, or apothecary (as the case may be), shall for each offence against this provision forfeit the sum of ten pounds.

25. Every person who shall desire to have a house licensed for the reception of lunatics shall give a notice, if
§ 24.
Notice and
plan of licens-
ed houses
given. such house be situate within the immediate juris-
diction of the commissioners, to the commissioners,
and if elsewhere to the clerk of the peace for the county or
borough in which such house is situate, fourteen clear days
at the least prior to some quarterly or other meeting of the
commissions, or to some general or quarter sessions for such
county or borough, as the case may be; and such notice shall
contain the true Christian and surname, place of abode, and
occupation of the person to whom the licence is desired to be
granted, and a true and full description of his estate or inter-
est in such house; and in case the person to whom the licence
is desired to be granted does not propose to reside himself in
the licensed house, the true Christian and surname and occu-
pation of the superintendent who is to reside therein; and
such notice, when given for any house which shall not have
been previously licensed, shall be accompanied by a plan of
such house, to be drawn upon a scale of not less than one-
eighth of an inch to the foot, with a description of the situa-
tion thereof, and the length, breadth, and height of and a
reference by a figure or letter to every room and apartment
therein, and a statement of the quantity of land, not covered
by any building, annexed to such house, and appropriated to
the exclusive use, exercise, and recreation of the patients pro-
posed to be received therein, and also a statement of the
number of patients proposed to be received into such house,
and whether the licence so applied for is for the reception of
male or female patients, or of both, and if for the reception
of both, of the number of each sex proposed to be received
into such house, and of the means by which the one sex may
be kept distinct and apart from the other; and such notice,
plan, and statement, when sent to the clerk of the peace, shall
be laid by him before the justices of the county or borough
at such time as they shall take into their consideration the

application for such licence: Provided always, that it shall be lawful for any person to whom a licence shall be granted to remove the superintendent named in the notice, and at any time or times to appoint another superintendent, upon giving a notice containing the true Christian and surname and occupation of the new superintendent to the commissioners or the visitors of the house, as the case may require: Provided always, that all plans heretofore delivered shall be deemed sufficient for the purposes of this Act, if the commissioners or justices, as the case may be, shall so think fit.

26. [§ 26. Notices of all additions and alterations to be given to the commissioners or clerks of the peace.]

27. [§ 27. Untrue statement, a misdemeanor.]

28. [§ 28. A copy of every licence granted by justices to be sent to the commissioners.]

29. [§ 29. Every person applying for the renewal of a licence to furnish a statement of the number and class of patients detained.]

30. [§ 30. Licence to be made out in form of schedule (A) and to be for not more than thirteen months.]

31. [§ 31. No licence, etc., in any borough without consent of recorder.]

32. [§§ 32-38. Charges for licences and application of money received.]

33. If any person to whom a licence shall have been granted under this Act or under any of the Acts hereinbefore repealed shall by sickness or other sufficient reason become incapable of keeping the licensed house, or shall die before the expiration of the licence, it shall be lawful for the commissioners or for any three justices for the county or borough, as the case may be, if they shall respectively think fit, by writing endorsed on such licence under the seal of the commissioners or under the hands of such three justices, to transfer the said licence, with all the privileges and obligations annexed thereto, for the term then unexpired, to such person as shall at the time of such incapacity or death be the superintendent of such house, or have the care of the patients therein, or to such other person as the commissioners or such justices respectively shall approve, and in the meantime such licence shall remain in force and have the

§ 39.
Provision in
case of inca-
pacity of the
person li-
censed.

same effect as if granted to the superintendent of the house; and in case a licence has been or shall be granted to two or more persons, and before the expiration thereof any or either of such persons shall die, leaving the other or others surviving, such licence shall remain in force and have the same effect as if granted to such survivors or survivor.

34. [§ 40. In case of a licensed house being taken for public purposes, or accidentally rendered unfit, or of the keeper wishing to transfer his patients to a new house.]

35. If a majority of the justices of any county or borough in general or quarter sessions assembled shall recommend to the lord chancellor that any licence granted by the justices for such county or borough, either before or after the passing of this Act, shall be revoked, it shall be lawful for the lord chancellor to revoke the same by an instrument under his hand and seal, such revocation to take effect at a period to be named in such instrument, not exceeding two calendar months from the time a copy or notice thereof shall have been published in the "London Gazette;" and a copy or notice of such instrument of revocation shall be published in the "London Gazette," and shall before such publication be transmitted to the person to whom such licence shall have been granted, or to the resident superintendent of the licensed house, or be left at the licensed house: Provided always, that in case of any such revocation being recommended to the lord chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the lord chancellor, be given to the person the revocation of whose licence shall be recommended, or the resident superintendent of the licensed house, or shall be left at the licensed house.

36. If the commissioners shall recommend to the lord chancellor that any licence granted either by the commissioners or by any justices, either before or after the passing of this Act, shall be revoked or shall not be renewed, it shall be lawful for the lord chancellor by an instrument under his hand and seal to revoke or prohibit the renewal of such licence; and in the case of a revocation the same shall take effect at a period to be named in such instrument, not exceeding two calendar months from the

§ 41.
Power of rev-
ocation of li-
cences when
granted by
justices.

§ 42.
Power of rev-
ocation of li-
cence granted
by commis-
sioners.

time a copy or notice thereof shall have been published in the "London Gazette;" and a copy or notice of such instrument of revocation shall be published in the "London Gazette," and shall before such publication be transmitted to the person to whom such licence shall have been granted, or to the resident superintendent of the licensed house, or shall be left at the licensed house: Provided always, that in case of any such revocation or prohibition to renew being recommended to the lord chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the lord chancellor, be given to the person the revocation or prohibition of renewal of whose licence shall be recommended, or to the resident superintendent of the licensed house, or shall be left at the licensed house.

37. The regulations as to lunatics of every hospital in which lunatics are or shall be received shall be printed; § 43. Regulations of asylums to be hung up in visitors' room. and complete copies thereof shall be sent to the commissioners, and also kept hung up in the visitors' room of such hospital; and every such hospital shall have a physician, surgeon, or an apothecary resident therein, Resident medical attendant. as the superintendent and medical attendant thereof, and such superintendent shall immediately after the passing of this Act (or immediately after the establishment of such hospital, as the case may be), apply to the commissioners to have such hospital registered, and thereupon such hospital shall be registered in a book to be kept for that purpose by Asylum to be registered. the commissioners; and in case the superintendent of any such hospital shall at any time omit to have copies of such regulations sent or hung up as aforesaid or to apply to have such hospital registered as aforesaid, he shall for every such omission forfeit a sum not exceeding twenty pounds.

38. After the passing of this Act it shall not be lawful for any person to receive two or more lunatics into any § 44. What houses to be licensed. house, unless such house shall be an asylum or an hospital registered under this Act, or a house for the time being duly licensed under this Act, or one of the Acts hereinbefore repealed; and any person who shall receive two or more lunatics into any house other than a house for the time being duly licensed as aforesaid, or an asylum or an hospital duly registered under this Act, shall be guilty of a misdemeanor.

39. Every proprietor or superintendent who shall receive any patient into any licensed house or any hospital shall, within two days after the reception of such patient, make an entry with respect to such patient in a book to be kept for that purpose, to be called "The Book of Admissions," according to the form and containing the particulars required in schedule (E) annexed to this Act, as far as he can ascertain the same, except as to the form of the mental disorder, and except also as to the discharge or death of the patient, which shall be made when the same shall happen; and every person who shall so receive any such patient, and shall not within two days thereafter make such entry as aforesaid (except as aforesaid), shall forfeit a sum not exceeding two pounds; and every person who shall knowingly and willingly in any such entry untruly set forth any of the particulars shall be guilty of a misdemeanor.

40. The form of the mental disorder of every patient received into any licensed house or any hospital shall within seven days after his reception be entered in the said book of admissions, by the medical attendant of such house or hospital; and every such medical attendant who shall omit to make any such entry within the time aforesaid shall for every such offence forfeit a sum not exceeding two pounds.

41. The proprietor or resident superintendent of every licensed house (whether licensed by the commissioners or by any justices), and the superintendent of every hospital, shall after two clear days, and before the expiration of seven clear days from the day on which any patient shall have been received into such house or hospital, transmit a copy of the order and medical certificates or certificate on which such person shall have been received, and also a notice or statement according to the form in schedule (F) annexed to this Act, to the commissioners; and the proprietor or resident superintendent of every house licensed within the jurisdiction of any visitors shall also within the same period transmit another copy of such order and certificates or certificate, and a duplicate of such notice and statement, to the clerk of the visitors; and every proprietor or superintendent of any such house or hospital who shall neglect to transmit

such copy, notice, or statement to the commissioners, or (when the same is required) to the clerk of the visitors, shall be guilty of a misdemeanor.

42. Whenever any patient shall escape from any licensed house or any registered hospital, the proprietor or superintendent of such house or hospital shall ^{§ 53.} within two clear days next after such escape trans- Notice of escape and return. mit a written notice thereof to the commissioners, and if such house be within the jurisdiction of any visitors then also to the clerk of such visitors; and such notice shall state the Christian and surname of the patient who has so escaped, and his then state of mind, and also the circumstances connected with such escape; and if such patient shall be brought back to such house or hospital such proprietor or resident superintendent shall within two clear days next after such person shall be so brought back transmit a written notice thereof to the commissioners, and also, if such house be within the jurisdiction of any visitors, to the clerk of such visitors; and such notice shall state when such person was so brought back, and the circumstances connected therewith, and whether with or without a fresh order and certificates or certificate; and every proprietor or resident superintendent omitting to transmit such notice, whether of escape or of return, shall for every such omission forfeit a sum not exceeding ten pounds.

43. Whenever any patient shall be removed or discharged from any licensed house or any hospital, or shall ^{§ 54.} die therein, the proprietor or superintendent of such Entry of death, discharge or removal. house or hospital shall, within two clear days next after such removal, discharge, or death, make an entry thereof in a book to be kept for that purpose according to the form and stating the particulars in schedule (G, 1) annexed to this Act, and shall also within the same two days transmit a written notice thereof, and also of the cause of his death, to the commissioners, and also, if such house shall be within the jurisdiction of any visitors, to the clerk of such visitors, according to the form and containing the particulars in schedule (G, 2) annexed to this Act; and every proprietor or superintendent of any such house or hospital who shall neglect to make such entry or transmit such notice or notices, or shall therein set forth anything untruly, shall be guilty of a misdemeanor.

44. In case of the death of any patient in any licensed house or any hospital, a statement of the cause of the death of such patient, with the name of any person present at the death shall be drawn up and signed by the medical attendant of such house or hospital, and a copy thereof, duly certified by the proprietor or superintendent of such house or hospital, shall by him be transmitted to the commissioners, and also to the person signing the order for such patients confined, and to the registrar of deaths for the district, and if such house be within the jurisdiction of any visitors, then also to the clerk of such visitors, within forty-eight hours after the death of such patient; and every medical attendant, proprietor, or superintendent who shall neglect or omit to draw up, sign, certify, or transmit such statement as aforesaid shall for every such neglect or omission forfeit and pay a sum not exceeding fifty pounds.

§ 55.
Statement of
cause of
death given
to commis-
sioners.

45. If any superintendent, officer, nurse, attendant, servant, or other person employed in any licensed house or registered hospital shall in any way abuse or ill-treat any patient confined therein, or shall wilfully neglect any such patient, he shall be deemed guilty of a misdemeanor; and that in the event of the release of any person from confinement in any asylum or private house who shall consider himself to have been unjustly confined, a copy of the certificates and order upon which he has been confined shall at his request be furnished to him or to his attorney by the clerk of the commissioners, without any fee or reward for the same; and it shall be lawful for the home secretary, on the report of the commissioners or visitors of any asylum, to direct her majesty's attorney-general to prosecute on the part of the crown any person who shall have been concerned in the unlawful taking or confinement of any of her majesty's subjects as an insane patient, and likewise any person who shall have been concerned in the neglect or ill-treatment of any patient or person so confined.

§ 56.
Cruelty to
patients,
penalties.

46. In every house licensed for one hundred patients or more there shall be a physician, surgeon, or apothecary resident as the superintendent or medical attendant thereof; and that every house licensed for less than one hundred and more than fifty patients (in case

§ 57.
Resident
medical at-
tendant when
required.

such house shall not be kept by or have a resident physician, surgeon, or apothecary), shall be visited daily by a physician, surgeon, or apothecary; and that every house licensed for less than fifty patients (in case such house shall not be kept by or have a resident physician, surgeon, or apothecary), shall be visited twice in every week by a physician, surgeon, or apothecary: Provided always, that it shall be lawful for the visitors of any licensed house to direct that such house, and for the commissioners to direct that any licensed house, shall be visited by a physician, surgeon, or apothecary at any other time or times, not being oftener than twice in every day.

47. Provided always, That when any house is licensed to receive less than eleven lunatics, it shall be lawful for ^{§ 58.} any two of the commissioners or any two of the visi- ^{Visitation of small houses.} tors of such house, if they shall respectively so think fit, by any writing under their hands, to permit that such house shall be visited by a physician, surgeon, or apothecary at such intervals more distant than twice in every week as such commissioners or visitors shall appoint, but not at a greater interval than once in every two weeks.

48. Every physician, surgeon, or apothecary, where there shall be only one, keeping or residing in or visiting ^{§ 59.} any licensed house or any hospital, and where there ^{Medical visitation book.} shall be two or more physicians, surgeons, or apothecaries keeping or residing in or visiting any licensed house or any hospital, then one at least of such physicians, surgeons, or apothecaries, shall once in every week (or, in the case of any house at which visits at more distant intervals than once a week are permitted, on every visit), enter and sign in a book to be kept at such house or hospital for that purpose, to be called "The Medical Visitation Book," a report, showing the date thereof, and also the number, sex, and state of health of all the patients then in such house or hospital, the Christian and surname of every patient who shall have been under restraint, or in seclusion, or under medical treatment, since the date of the last preceding report, the condition of the house or hospital, and every death, injury, and act of violence which shall have happened to or affected any patient since the then last preceding report, according to the form in schedule (H) annexed to this Act; and every such physician, surgeon, or

apothecary who shall omit to enter or sign such report as aforesaid shall for every such omission forfeit and pay the sum of twenty pounds; and every such physician, surgeon, or apothecary who shall in any such report as aforesaid enter anything untruly shall be guilty of a misdemeanor.

49. There shall be kept in every licensed house and in every § 60.
Medical case
book. hospital a book to be called "The Case Book," in which the physician, surgeon, or apothecary keeping or residing in or visiting such house or hospital shall from time to time make entries of the mental state and bodily condition of each patient, together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder; and it shall be lawful for the commissioners from time to time, by any order under their common seal, to direct the form in which such case book shall be kept by such physician, surgeon, or apothecary; and immediately after a copy of such order shall have been transmitted by the secretary of the commissioners to such physician, surgeon, or apothecary, such physician, surgeon, or apothecary shall thereupon keep such case book in the form which shall be directed by such order; and it shall be lawful for the commissioners (whenever they shall see fit) to require, by an order in writing under their common seal, such physician, surgeon, or apothecary to transmit to the commissioners a correct copy of the entries or entry in any case book kept under the provisions of this Act, relative to the case of any lunatic who is or may have been confined in any such licensed house or hospital; and every such physician, surgeon, or apothecary who shall neglect to keep the said case book, or to keep the same according to the form directed by the commissioners, or to transmit a copy of the said entry or entries, pursuant to such order or orders as aforesaid, shall for every such neglect forfeit any sum not exceeding ten pounds.

50. Every licensed house shall, without any previous notice, § 61.
All licensed
houses and
asylums to be
visited by
commission-
ers. be visited by two at least of the commissioners (one of whom shall be a physician or surgeon, and the other a barrister), four times at the least in every year, if such house shall be within the immediate jurisdiction of the commissioners, and if not, twice at least in every year; and every hospital in which lunatics shall be received

shall without any previous notice, be visited by two at least of the said commissioners (one of whom shall be a physician or surgeon, and the other a barrister), once at least in every year; and every such visit shall be made on such day or days, and at such hours of the day, and for such length of time, as the visiting commissioners shall think fit, and also at such other times (if any) as the said commissioners in lunacy shall direct; and such visiting commissioners, when visiting such house or hospital, may and shall inspect every part of such house or hospital, and every outhouse, place and building communicating with such house or hospital, or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground or appurtenances held, used, or occupied therewith, and see every patient then confined in such house or hospital, and inquire whether any patient is under restraint, and why, and inspect the order and certificates or certificate for the reception of every patient who shall have been received into such house or hospital since the last visit of the commissioners, and in the case of any house licensed by justices shall consider the observations made in the visitors' book for such house by the visitors appointed by the justices, and enter in the visitors' book of such house or hospital a minute of the then condition of the house or hospital, and of the patients therein, and the number of patients under restraint, with the reasons thereof, as stated, and such irregularity (if any) as may exist in any such order or certificates as aforesaid, and also whether the previous suggestions (if any) of the visiting commissioners or visitors, have or have not been attended to, and any observations which they may deem proper as to any of the matters aforesaid or otherwise, and also, if such visit be the first after the granting a licence to the house, shall examine such licence; and, if the same be in conformity with the provisions of this Act, sign the same, but if it be informal enter in such visitors' book in what respect such licence is informal; Provided also, that it shall be lawful for the lord chancellor, on a representation by the commissioners setting forth the expediency of such alterations, by any writing under his hand, to direct that any house licensed by justices shall (during such period as he shall therein specify, or until such his direction shall be revoked), be visited by the commissioners once only in the

year, and also to direct that any house licensed by the commissioners, and not receiving any pauper patients therein, shall (during such period as he shall therein specify, or until such his direction shall be revoked), be visited by the commissioners twice only in the year.

51. Every licensed house within the jurisdiction of any visitors appointed by justices shall be visited by two at least of the said visitors (one of whom shall be a physician, surgeon, or apothecary,) four times at the least in every year, on such days, and at such hours in the day, and for such length of time as the said visitors shall think fit, and also at such other times (if any) as the justices by whom such house shall have been licensed shall direct; and such visitors when visiting any such house may and shall inspect every part of such house, and every house, outhouse, place, and building communicating therewith, or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground or appurtenances held, used, or occupied therewith, and see every patient then confined therein, and inquire whether any patient is under restraint, and why, and inspect the order and certificates or certificate for the reception of every patient who shall have been received into such house since the last visit of the visitors, and enter in the visitors' book a minute of the then condition of the house, of the patients therein, and the number of patients under restraint, with the reasons thereof as stated, and such irregularity (if any) as may exist in any such order or certificates as aforesaid, and also whether the previous suggestions (if any) of the visitors or visiting commissioners have or have not been attended to, and any observations which they may deem proper as to any of the matters aforesaid or otherwise.

52. The proprietor or superintendent of every licensed house or hospital shall show to the commissioners and visitors respectively visiting the same every part thereof respectively, and every person detained therein as a lunatic; and every proprietor or superintendent of any licensed house or any hospital who shall conceal or attempt to conceal, or shall refuse or wilfully neglect to show, any part of such house or hospital, or any house, outhouse, place, or build-

§ 62.

Licensed
houses not
within juris-
diction of
commissioners,
visitation of.

§ 63.

Every part of
asylum to be
shown to vis-
itors.

ing communicating therewith or detached therefrom, but not separated as aforesaid, or any part of the ground or appurtenances held, used, or occupied therewith, or any person detained or being therein, from any visiting commissioners or visitors, or from any person authorised under any power or provision of this Act to visit and inspect such house or hospital, or the patients confined therein or any of them, shall be guilty of a misdemeanor.

53. The visiting commissioners and visitors respectively, upon their several visitations to every licensed house and to every hospital, shall inquire when divine service is performed, and to what number of the patients, and the effect thereof; and also what occupations or amusements are provided for the patients, and the result thereof; and whether there has been adopted any system of non-coercion, and if so, the result thereof; and also as to the classification of patients; and also as to the condition of the pauper patients (if any) when first received; and also as to the dietary of the pauper patients (if any); and shall also make such other inquiries as to such visiting commissioners or visitors shall seem expedient; and every proprietor or superintendent of a licensed house or an hospital who shall not give full and true answers, to the best of his knowledge, to all questions which the visiting commissioners and visitors respectively shall ask in reference to the matters aforesaid, shall be guilty of a misdemeanor.

54. Upon every visit of the visiting commissioners to any licensed house or to any hospital, and upon every visit of the visitors to any licensed house, there shall be laid before such visiting commissioners or visitors (as the case may be), by the proprietor or superintendent of such licensed house or of such hospital, a list of all the patients then in such house or hospital (distinguishing pauper patients from other patients, and males from females, and specifying such as are deemed curable), and also the several books by this Act required to be kept by the proprietor or superintendent and by the medical attendant of a licensed house or an hospital, and also all orders and certificates relating to patients admitted since the last visitation of the commissioners or visitors (as the case may be), and also, in the

§ 64.
Inquiries to
be made by
visitors.

§ 65.
Books and
documents to
be produced.

case of a licensed house, the licence then in force for such house, and also all such other orders, certificates, documents, and papers relating to any of the patients at any time received into such licensed house or hospital as the visiting commissioners or visitors shall from time to time require to be produced to them; and the said visiting commissioners or visitors, as the case may be, shall sign the said books as having been produced to them.

55. There shall be hung up in some conspicuous part of every licensed house a copy of the plan given to § 66. Visitor's book. the commissioners or justices on applying for the licence for such house; and that there shall be kept in every licensed house and in every hospital in which lunatics shall be received a queen's printer's copy of this Act, bound up in a book to be called "The Visitors' Book," and the said visiting commissioners and visitors respectively shall at the time of their respective visitations enter therein the result of the inspections and inquiries hereinbefore directed or authorised to be made by them respectively, with such observations (if any) as they shall think proper; and there shall also be Patients' book. kept in every such house and hospital a book to be called "The Patients' Book," and the said visiting commissioners and visitors respectively shall at the times of their respective visitations enter therein such observations as they may think fit respecting the state of mind or body of any patient in such house or hospital.

56. The proprietor or resident superintendent of every licensed house and of every hospital shall, within § 67. Entries to be transmitted to clerk of visitors and commissioners. three days after every such visit by the visiting commissioners as aforesaid, transmit a true and perfect copy of the entries made by them in "The Visitors' Book," "The Patients' Book," and "The Medical Visitation Book" respectively (distinguishing the entries in the several books) to the commissioners, and shall, within three days after every such visitation by the visitors, transmit a true and perfect copy of the entries made by them as aforesaid (distinguishing as aforesaid) to the commissioners and also to the clerk of the visitors; and the copies so transmitted to the clerk of the visitors of all such entries relating to any licensed house, and made since the grant or last renewal of

the licence thereof, shall be laid before the justices on taking into consideration the renewal of the licence to the house to which such entries shall relate; and every such proprietor or superintendent as aforesaid who shall omit to transmit, as hereinbefore directed, a true and perfect copy of every or any such entry as aforesaid, shall for every such omission forfeit a sum not exceeding ten pounds.

57. The commissioners visiting any house licensed by justices shall carefully consider and give special atten- § 68. Visits.
tion to the state of mind of any patient therein confined, as to the propriety of whose detention they shall doubt (or as to whose sanity their attention shall be specially called), and shall, if they shall think that the state of mind of such patient is doubtful, and that the propriety of his detention requires further consideration, make and sign a minute thereof in the patients' book of such house; and a true and perfect copy of every such minute shall, within two clear days after the same shall have been made, be sent by the proprietor or superintendent of such house to the clerk of the visitors of such house, and such clerk shall forthwith communicate the same to the said visitors, or some two of them (of whom a physician, surgeon, or apothecary shall be one), and such visitors shall thereupon immediately visit such patient, and act as they shall see fit; and every such proprietor or superintendent who shall omit to send a true and perfect copy, as hereinbefore directed, of every or any such last mentioned minute, and every clerk who shall neglect to communicate the same to two of the visitors as aforesaid, shall be guilty of a misdemeanor.

58. The visiting commissioners shall, after every visitation by them to every licensed house not being within § 69. Reports of commissioners.
their immediate jurisdiction, and to every hospital, report in writing the general result of their inspection thereof (together with such special circumstances, if any, as they may deem proper to notice), to the commissioners, and the secretary of the commissioners shall thereupon enter the same in a book to be kept for that purpose.

59. [§ 70. Power for the commissioners or any five of them to make rules.]

60. It shall be lawful for any two or more of the commissioners, or any two visitors, to visit and to inspect § 71. Night visits.

any licensed house or hospital, at such hour of the night as they shall think fit: Provided nevertheless, that no such visitor shall make any such visitation or inspection except of a licensed house within their jurisdiction.

61. If and when any person who signed the order on which any patient (not being a pauper) was received into any licensed house or into any hospital shall by writing under his hand direct that such patient shall be discharged or removed, then and in such case such patient shall forthwith be discharged or removed, as the person who signed the order for his reception shall direct.

§ 72.
Persons signing order of reception may order discharge.

62. If the person who signed the order on which any patient (not being a pauper) was received into any licensed house or into any hospital be incapable by reason of insanity or absence from England, or otherwise, of giving an order for the discharge or removal of such patient, or if such person be dead, then and in any of such cases the husband or wife of such patient, or if there be no husband or wife, the father of such patient, or if there be no father, the mother of such patient, or if there be no mother, then any one of the nearest of kin for the time being of such patient, or the person who made the last payment on account of such patient, may by any writing under his or her hand give such direction as aforesaid for the discharge or removal of such patient, and thereupon such patient shall be forthwith discharged or removed as the person giving such direction shall direct.

§ 73.
Provision where person who signed the order is incapable.

63. The guardians of any parish or union may by a minute of their board, or an officiating clergyman of any parish not under a board of guardians, and one of the overseers thereof, or any two justices of the county or borough in which such last mentioned parish is situate, may by writing under the hands respectively of such clergyman and overseer, or of such justices, direct that any pauper patient belonging to such parish, or union, and detained in any licensed house or any hospital, shall be discharged or removed therefrom, and may direct the mode of such discharge or removal; and if a copy of such minute or such writing be produced to the proprietor or superintendent of such licensed

§ 74.
Discharge of pauper patients.

house or such hospital he shall forthwith discharge or remove such patient, or cause or suffer such patient to be discharged or removed accordingly.

64. Provided always, nevertheless, That no patient shall be discharged or removed, under any of the powers ^{§ 5.} hereinbefore contained, from any licensed house or any hospital, if the physician, surgeon, or apothecary by whom the same shall be kept, or who shall be the regular medical attendant thereof, shall by writing under his hand certify that in his opinion such patient is dangerous and unfit to be large, together with the grounds on which such opinion is founded, unless the commissioners visiting such house or the visitors of such house shall, after such certificate shall have been produced to them, give their consent in writing that such patient shall be discharged or removed; provided, that nothing herein contained shall prevent any patient from being transferred from any licensed house or any hospital to any other licensed house or any other hospital, or to any asylum, but in such case every such patient shall be placed under the control of an attendant belonging to the licensed house, hospital, or asylum, to or from which he shall be about to be removed for the purpose of such removal, and shall remain under such control until such time as such removal shall be duly affected.

65. It shall be lawful for any two or more of the commissioners to make visits to any patient detained in any house licensed by the commissioners, on such days and at such hours as they shall think fit; ^{§ 76.} and if after two distinct and separate visits so made Discharge from house licensed by commissioners. (seven days at least to intervene between such visits) it shall appear to such visiting commissioners that such patient is detained without sufficient cause, it shall be lawful for the commissioners, if they shall think fit, to make such order as to the commissioners shall seem meet for the discharge of such patient, and such patient shall be discharged accordingly.

66. It shall be lawful for any two or more of the commissioners, of whom one shall be a physician and one a barrister, to make special visits to any patient detained in any house licensed by the justices or in any hospital, on such days and at such hours as ^{§ 77.} Special visits for discharge by commissioners.

they shall think fit; and if after two distinct and separate visits so made it shall appear to such visiting commissioners that such patient is detained without sufficient cause, they may make such order as to them may seem meet for the discharge of such patient, and such patient shall be discharged accordingly.

67. [§ 78. Similar powers for two visitors as to houses within their jurisdiction.]

68. Every such order by any commissioners or visitors for the discharge of a patient from any house licensed by justices, or from any hospital, shall be signed by them, and that each of such special visits shall be by the same commissioners or visitors; and that it shall not be lawful for such commissioners or visitors to order the discharge of any patient from any such last mentioned house or hospital without having previously, if the medical attendant of such house or hospital shall have tendered himself for that purpose, examined him as to his opinion respecting the fitness of such patient to be discharged, and if such commissioners or visitors shall, after so examining such medical attendant, discharge such patient, and such medical attendant shall furnish them with any statement in writing containing his reasons against the discharge of such patient, they shall forthwith transmit such statement to the commissioners or to the clerk of the visitors, as the case may require, to be kept and registered in a book for that purpose.

69. Not less than seven days shall intervene between the first and second of such special visits and such commissioners or visitors shall, seven days previously to the second of such special visits, give notice thereof, either by post or by an entry in the patients' book to the proprietor or superintendent of the house licensed by justices or of the hospital in which the patient intended to be visited is detained; and such proprietor or superintendent shall forthwith, if possible, transmit by post a copy of such notice, in the case of a patient not being a pauper, to the person by whose authority such patient was received into such house, or by whom the last payment on account of such patient was made, and in the case of a pauper, to the guardians of his parish or union, or if there be no such guardians, to one

§ 79.
Orders for discharge to be signed, restrictions.

§ 80.
Powers for discharge, when to be exercised.

of the overseers for the time being of his parish, and also in the case of any patient detained in a house licensed by justices, to the clerk of the visitors of such house.

70. Provided always, nevertheless, that none of the powers of discharge hereinbefore contained shall extend to any person who shall have been found lunatic by inquisition or under any inquiry directed by the lord chancellor, in pursuance of the powers in that behalf hereinafter given to him, nor to any lunatic confined under any order or authority of her majesty's principal secretary of state for the home department, or under the order of any court of criminal jurisdiction.

§ 81.
Powers for
discharge not
to extend to
patients con-
fined by law.

71. [§ 82. Power for visitors and visiting commissioners, to regulate the dietary of pauper patients.]

72. That if any person shall apply to any visitor in order to be informed whether any particular person is confined in any licensed house, within the jurisdiction of such visitor, if he shall think it reasonable to permit such inquiry to be made, shall sign an order to the clerk of the visitors, and the clerk shall, on receipt of such order, and on payment to him of a sum not exceeding seven shillings for his trouble, make search amongst the returns made to him in pursuance of this Act whether the person inquired after is or has in within the then last twelve calendar months confined in any licensed house within the jurisdiction of such visitors; and if it shall appear that such person is or has been so confined, then the said clerk shall deliver to the person so applying a statement in writing, specifying the situation of the house in which the person so inquired after appears to be or to have been confined, and of the name of the proprietor or resident superintendent thereof, and also the date of the admission of such person into such licensed house, and (in case of his having been removed or discharged) the date of his removal or discharge therefrom.

§ 83. Orders.

73. [§ 84. Power for any commissioners to give an order to the secretary of the commissioners to search and give information whether any particular person is, or has been, within twelve months confined in any house or hospital.]

74. [§ 85. Any one commissioner or visitor may give an

order for the admission to any patient of any friend or relation, or any person named by a friend or relation.]

75. [§ 86. Proprietor or superintendent, with consent of two commissioners or visitors, may take or send a patient to any place for his health.]

76. [§ 87. In case of the removal of a patient, or of his escape and recapture within fourteen days, the original order for his reception to remain in force.]

77. [§ 88. Commissioners to report to the lord chancellor periodically.]

78. [§ 89. This section is repealed by 16 & 17 Vict., ch. 96, § 27.]

79. No person (unless he be a person who derives no profit from the charge, or a committee appointed by the lord chancellor) shall receive, to board or lodge in any house, other than an hospital registered under this Act, or any asylum, or a house licensed under this Act, or under one of the Acts hereinbefore repealed, or take the care or charge of any one patient as a lunatic or alleged lunatic, without the like order and medical certificates in respect of such patient as are hereinbefore required on the reception of a patient (not being a pauper) into a licensed house; and that every person (except a person deriving no profit from the charge, or a committee appointed by the lord chancellor) who shall receive to board or lodge in any unlicensed house, not being a registered hospital or an asylum, or take the care or charge of any one patient as a lunatic or alleged lunatic, shall within seven clear days after so receiving or taking such patient, transmit to the secretary of the commissioners a true and perfect copy of the order and medical certificates on which such patient has been so received, and a statement of the date of such reception, and of the situation of the house into which such patient has been received, and of the Christian and surname and occupation of the occupier thereof, and of the person by whom the care and charge of such patient has been taken; and every such patient shall at least once in every two weeks be visited by a physician, surgeon or apothecary not deriving, and not having a partner, father, son, or brother who derives, any profit from the care or charge of such patient; and such physician, surgeon, or apothecary shall

§ 90.
Order and
medical certi-
ficate required
for reception
of patient.

enter in a book, to be kept at the house or hospital for that purpose, to be called "The Medical Visitation Book," the date of each of his visits, and a statement of the condition of the patient's health, both mental and bodily, and of the condition of the house in which such patient is, and such book shall be produced to the visiting commissioner on every visit, and shall be signed by him as having been so produced; and the person by whom the care or charge of such patient has been taken, or into whose house he has been received as aforesaid, shall transmit to the secretary of the commissioners the same notices and statements of the death, removal, escape and recapture of such lunatic, and within the same periods, as are hereinbefore required in the case of the death, removal, escape and recapture of a patient (not being a pauper) received into a licensed house; and every person who shall receive into an unlicensed house, not being a registered hospital nor an asylum, or take the care or charge of any person therein as a lunatic, without first having such order and medical certificates as aforesaid, or who, having received any such patient, shall not within the several periods aforesaid transmit to the secretary of the commissioners such copy, statement and notice as aforesaid, or shall fail to cause such patient to be so visited by a medical attendant as aforesaid, and every such medical attendant who shall make an untrue entry in the said medical visitation book, shall be guilty of a misdemeanor.

Visitation
of patients,
entries of
visit.

80. [§ 91. Copy of the order and certificate, etc., with respect to lunatics received into an unlicensed house to be entered in a private register.]

81. It shall be lawful for any one member of the said private committee, on the direction of such committee, or of any two members thereof (of whom the one member aforesaid may be one), at all reasonable times to visit every or any unlicensed house in which one patient only is received as a lunatic (unless such patient be so received by a person deriving no profit from the charge, or by a committee appointed by the lord chancellor), and to inquire and report to the said private committee on the treatment and state of health, both bodily and mental, of such patient; and a copy of every or any such

§ 92.
Members of
the private
committee to
visit un-
licensed houses
receiving a
single pa-
tient, report.

report shall be entered in a private register, to be kept for that purpose, by the secretary of the commissioners, and another copy thereof shall, if such private committee think it expedient, be laid before the lord chancellor.

82. It shall be lawful for the lord chancellor, on the representation of the said private committee, accompanied with a copy of a report made as last aforesaid, as to any patient received or detained as a lunatic in an unlicensed house as aforesaid, to make an order that such patient shall be removed from such house, and from the care and charge of the person under whose care and charge such lunatic may be; and any person detaining such lunatic in such house, or in such care or charge for the space of three days after a copy of such order shall have been left at such house or served on such person, shall be guilty of a misdemeanor.

83. [§ 94. Commissioners to report if property of lunatics be not duly protected or applied.]

84. [§ 95. The lord chancellor to direct the master in lunacy to report as to the lunacy of any person detained as a lunatic, and to appoint guardians of his person and estate, and direct the application of his income.]

85. [§ 96. Master in lunacy to have all necessary powers of inquiry, and to make inquiries referred to them.]

86. [§ 97. Lord chancellor to make orders and regulations, and fix fees.]

87. [§ 98. Masters' expenses, how to be paid.]

88. Every proprietor and superintendent of a licensed house or registered hospital, and every other person hereby or by any of the Acts hereinbefore repealed authorised to receive or take charge of a lunatic upon an order, and who shall receive or has received a proper order, in pursuance of this Act or any of the said repealed Acts, accompanied by the required medical certificates or certificate, for the reception or taking charge of any person as a lunatic, and the assistants and servants of such proprietor, superintendent, or other person, shall have power and authority to take charge of, receive, and detain such patient until he shall die, or be removed or discharged by due authority, and in case of the escape at any time or times of such patient to retake him at

§ 93.
Lord chan-
cellor on such
report may
order re-
moval.

§ 99.
Exemption
from prosecu-
tion for illegal
reception

any time within fourteen days after such escape, and again to detain him as aforesaid; and in every writ, indictment, information, action, and other proceeding which shall be preferred or brought against any such proprietor, superintendent, or other person authorised as aforesaid, or against any assistant or servant of any such proprietor, superintendent, or authorised person, for taking, confining, detaining, or retaking any person as a lunatic, the party complained of may plead such order and certificates or certificate in defence of any such writ indictment, information, action, or other proceeding as aforesaid, and such order and certificates or certificate shall, as respects such party, be a justification for taking, confining, detaining, or retaking such lunatic or alleged lunatic.

89. [§§ 100–109. Regulations for the prosecution of offences under this Act.]

90. Two or more of the commissioners, one at least of whom shall be a physician or surgeon, and one at least a barrister, shall and may, once or oftener in each year, on such day or days, and at such hours of the day, and for such length of time as they shall think fit, visit every asylum for lunatics, and every gaol in which there shall be or alleged to be any lunatic, and shall inquire whether the provisions of the law have been carried out as to the construction of each asylum visited, and as to its visitation and management, and also as to the regularity of admissions and discharges of patients therein and therefrom; and whether divine service is performed therein; and whether any system of coercion is in practice therein, and the result thereof; and as to the classification or non-classification of patients therein, and the number of attendants on each class; and as to the occupations and amusements of the patients, and the effects thereof; and as to the condition, as well mental as bodily, of the pauper patients when first received; and also as to the dietary of the pauper patients; and shall also make such other inquiries as to every or any such asylum, and all such inquiries as to the lunatics in any gaol, as to such visiting commissioners shall seem meet.

91. It shall be lawful for the lord chancellor, in the case of any lunatic under the care of a committee appointed by the lord chancellor, and for the lord chancellor, or her majesty's principal secretary of state for the

§ 110.
Commission-
ers to visit
asylums and
gaols.

§ 112.
Visitations
not heretofore
provided for.

home department, in the case of any lunatic under the care of any person receiving or taking the charge of such one lunatic only, and deriving no profit from the charge, and in the case of any person confined as a state lunatic, or as a lunatic under the order of any criminal court of justice, and in the case of every other person detained or taken charge of as a lunatic, or represented to be a lunatic, or to be under any restraint as a lunatic, at any time, by an order in writing under the the hand of the lord chancellor or the said secretary of state, as the case may be, directed to the commissioners, or any of them, or to any other person, to require the persons or person to whom such order shall be directed, or any of them, to visit and examine such lunatic or supposed lunatic, and to make a report to the lord chancellor, or to her majesty's principal secretary of state for the home department, of such matters as in such order shall be directed to be inquired into.

92. It shall be lawful for the lord chancellor or her majesty's principal secretary of state for the home department to employ any commissioners appointed under this Act, or other person to inspect or inquire into the state of asylum, hospital, gaol, house, or place wherein any lunatic or person represented to be a lunatic, shall be confined or alleged to be confined, and report to him the result of such inspection and inquiry; and every such person so employed, and not being a commissioner, may be paid such sum of money for his attendance and trouble as to the lord chancellor or her majesty's principal secretary of state for the home department shall seem reasonable; and every such person so employed, whether a commissioner or not, shall be allowed his reasonable travelling or other expenses while so employed; and such sum of money for attendance and trouble, and such expenses, shall be charged on and shall be paid out of the contingency fund of the home-office.

93. In this Act and the schedules thereto the words and expressions following shall have the several meanings hereby assigned to them, unless there shall be something in the subject or context repugnant to such construction; (that is to say) * * * *

"Lunatic" shall mean every insane person, and every person being an idiot or lunatic or of unsound mind: * *

§ 113.
Special visita-
tion by com-
missioners.

§ 114.
Interpretation
clause

"Pauper" shall mean every person maintained wholly or in part at the expense of any parish, union, county or borough:

"Patient" shall mean every person received or detained as a lunatic, or taken care or charge of as a lunatic:

"Private patient" shall mean every patient who is not a pauper:

"Proprietor" shall mean every person to whom any licence has been granted under the provisions of any Act hereby repealed, or shall be granted under the provisions of this Act and every person keeping, owning, having any interest or exercising any duties or powers of a proprietor in any licensed house: * * * * *

"Medical attendant" shall mean every physician, surgeon, and apothecary who shall keep any licensed house, or shall in his medical capacity attend any licensed house, or any asylum, hospital or other place where any lunatic shall be confined. * * * * *

"Asylum" shall mean any lunatic asylum already erected and established under an Act passed in the forty-eighth year of the reign of his late majesty king George the third, intituled, "an Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England," or erected and established, or hereafter to be erected and established, under or which have been subject or liable to any of the provisions of an Act passed in the ninth year of the reign of his late majesty king George the fourth, intituled, "an Act to amend the Laws for the Erection and Regulation of County Lunatic Asylums, and more effectually to provide for the Care and Maintenance of Pauper and Criminal Lunatics in England," or hereafter to be erected and established under the provisions of any Act for the erection or regulation of county or borough lunatic asylums.

"Hospital" shall mean any hospital or part of an hospital or other house or institution (not being an asylum) wherein lunatics are received, and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision or benefit of other patients.

"Licensed house" shall mean a house licensed under the provisions of this Act, or of some Act hereby repealed, for the reception of lunatics. * * * * *

SCHEDULE (A), SECTION 30.

Form of Licence.

Know all men, that we, the commissioners in lunacy, [or we the undersigned justices of the peace, acting in and for in general [or quarter or special sessions assembled,] do hereby certify That A. B., of in the parish of in the county of hath delivered to us [or the clerk of the peace] a plan and description of a house and premises proposed to be licensed for the reception of lunatics, situate at in the county of [or, in the case of a renewed licence, hath delivered to us [or the clerk of the peace] a list of the number of patients now detained in a house and premises licensed on the day of last, for the reception of lunatics, situate at in the county of], and we, having considered and approved the same, do hereby authorise and empower the said A. B., (he intending [or not intending] to reside therein) to use and employ the said house and premises for the reception of male [or female, or male and female] lunatics, of whom not more than shall be private patients, for the space of calendar months from this date.

Sealed with our common seal [or given under our hands and seals], this day of in the year of our Lord 18 .

Witness,

Y. Z., secretary to the commis-
missioners of lunacy [or clerk
of the peace.] }

SCHEDULE (G. 1.), SECTION 54.
Register of Discharges and Deaths.

Date of Discharge or Death.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at Length.	Sex and Class.						Discharged.						Assigned cause of Death.	Age at Death.		Observations.
				Private.			Pauper.			Recovered.	Relieved.		Not Improved.		Died.				
				M.	F.		M.	M.	F.		M.	F.	M.	F.			M.	F.		M.	F.
1846: Sept. 1.	1846: Jan. 3.	1	William Johnson .	..	..	1	..	1	..	1	..	..	..	..	..	..	..
1848: Dec. 2.	1848: June 9.	4	William Johnson .	..	..	1	..	1	..	1	..	..	..	..	..	..	..
1853: June 3.	1852: May 6.	7	William Johnson .	..	..	1	..	1	..	1	..	..	..	..	..	1	..	Phthisis. 37

SCHEDULE (G 2), SECTION 44.

Form of Notice of Discharge or Death.

I hereby give you notice, that a private [or pauper]
 patient, received into this house [or hospital] on the
 day of was discharged therefrom recovered [or re-
 lieved, or not improved] by the authority of [or died
 therein, on the day of].

(Signed)

Superintendent [or proprietor]
 of house [or hos-
 pital], at .

Dated this day of one thousand eight hundred
 and .

In case of death, add, "and I further certify, that A. B. was
 present at the death of the said and that the apparent
 cause of the death of the said [ascertained by post
 mortem examination (if so)] was ." * * * *

SCHEDULE (I), SECTION 100.

Form of Summons.

We, the commissioners in lunacy [or we whose names are
 hereunto set and seals affixed, being two of the commissioners
 in lunacy, or visitors] appointed under or by virtue of an Act
 passed in the year of the reign of her present maj-
 esty, intituled [here insert the title of the Act], do hereby
 summon and require you personally to appear before us at
 in the parish of in the county of on
 next the day of at the hour of
 in the noon of the same day, and then and there to
 be examined, and to testify the truth touching certain matters
 relating to the execution of the said Act.

Sealed with the common seal of "the commissioners in
 lunacy," [or given under our hands and seals,] this
 day of in the year of our Lord one thousand eight
 hundred and .

LUNACY REGULATION ACT, 1853.

§ 16 and 17 Vict., ch. 70; Chitty, vol. 3., p. 127.

* * * * *

94. In this Act, unless there be something in the subject
 § 2. matter or context repugnant to the construction;
 * * * * The expression the "masters" shall be construed to
 mean the masters in lunacy for the time being, jointly and
 severally; * * * * And the expression "the registrar" shall
 be construed to mean the registrar in lunacy for the time
 being; and the word "commission" shall be construed to mean
 a commission in the nature of a writ *de lunatico inquirendo*,
 and to comprehend the general commission by this Act author-
 ised to be issued; * * * *

* * * * *

And the word "lunatic" shall be construed to mean any
 person found by inquisition idiot, lunatic, or of unsound mind,
 and incapable of managing himself or his affairs.

* * * * *

95. This Act * * * may be cited as "The Lunacy Regula-
 § 5. tion Act, 1853."

96. There shall be two masters in lunacy, who shall hold
 § 6. their offices during good behaviour, and the present
 Appointment of masters in lunacy, oath. masters in lunacy shall be continued and be the
 masters in lunacy during good behaviour and the
 lord chancellor shall, from time to time as any vacancy shall
 occur in the office of master in lunacy, appoint a fit person,
 being a sergeant or barrister-at-law of not less than ten years'
 standing at the bar, to fill the vacancy, and the person to be
 so appointed shall before being capable of acting as master in
 lunacy, take before the lord chancellor, in the manner now
 used, the oath set forth in the second schedule hereunder
 written, and the masters in lunacy for the time being shall
 have the same rank and precedence as the present masters
 now take.

97. The masters in lunacy shall have, perform, and execute
 § 7. all the powers, duties, and authorities which were
 Powers of masters. at the time of the passing of this Act of the session
 of parliament holden in the fifth and sixth years of the reign
 of her majesty, chapter eighty-four, had, performed, and exe-

cuted by commissioners named in commissions in the nature of writs *de lunatico inquirendo*.

98. All the inquiries and matters connected with the persons and estates of lunatics which were at the time of the passing of the last-mentioned Act of parliament usually referred to the masters in ordinary of the high court of chancery (except inquiries and matters which may be or might have been referred under the Trustee Act, 1850, or any Act thereby repealed), shall henceforth, where references shall be made, be referred to the masters in lunacy, who shall have, perform, and execute all the powers, duties, and authorities relating to the inquiries and matters so to be referred to them as aforesaid which were at the time last aforesaid had, performed, and executed by the masters in ordinary of the high court of chancery, and shall perform such other duties for the security and advantage of lunatics and their estates as the lord chancellor intrusted as aforesaid shall from time to time direct.

§ 8.
All references
connected
with lunatics
to be made to
masters.

99. [§ 9. Masters to perform duties under regulations of the lord chancellor.]

100. [§ 10. Registrar to perform duties under regulations of lord chancellor.]

101. [§ 11. Duties of the clerk of the custodies to be performed by masters and registrar.]

102. [§ 12. As to the master's salaries and retiring annuities.]

103. [§ 13. Power of lord chancellor to remove, and grant annuities to future masters, if afflicted with infirmity.]

104. [§ 14. Salary of registrar.]

105. [§ 15. Number and salaries of the clerks of the masters and the registrar.]

106. There shall be two medical visitors and one legal visitor of lunatics, who shall hold their offices during pleasure; and the present visitors shall be continued and be the visitors during pleasure; and the lord chancellor shall from time to time, as any vacancy shall occur in the office of medical visitor or legal visitor, appoint, by writing under his hand, a fit person, being a physician in actual practice, to succeed a medical visitor, and a fit person, being a barrister of not less than five years' standing, to succeed a legal visitor.

§ 16.
Appointment
of visitors.

107. The masters for the time being shall, by virtue of their

§ 17. Masters ex-officio visitors. appointments to be masters, become and be visitors of lunatics jointly with the visitors for the time being.

108. No person shall be appointed to be a visitor who shall be or shall have been within the two years then next preceding directly or indirectly interested in the keeping of any house licensed for the reception of insane persons; and if any person shall after his appointment become so interested, his appointment as visitor shall *ipso facto* become null and void, and thereupon his salary shall cease.

§ 18. Visitors not to be interested in asylums.

109. [§ 19. Salaries of visitors.]

110. The medical and legal visitors and the masters, or so many of them, not being less than three in number, as may from time to time be able, consistently with the discharge of their other duties, to attend, shall from time to time form themselves into a board for their mutual guidance and direction on matters connected with the visiting of lunatics; and the board shall be at liberty to report to the lord chancellor intrusted as aforesaid upon any matter connected with the duties of the visitors or of the board, as they think proper.

§ 20. Visitors and masters to form a board.

111. [§ 21. Medical or legal visitor may appoint a substitute during his illness, etc.]

112. [§ 22. Lord chancellor to appoint a secretary to visitors.]

113. [§§ 23-37. Expenses, salaries, percentages.]

114. Any commission in the nature of a writ *de lunatico inquirendo* directed to one person or to two persons, and the inquisition returned thereon, shall be as valid and effectual to all intents and purposes as if directed to and returned by more than two persons; and every commission shall (subject to the provision hereinafter contained) be directed to the masters, or one of them, and may be varied in form from that now in use in such manner as to the lord chancellor may seem necessary or expedient.

§ 38.

115. In lieu of the commission now issued specially in each case of alleged lunacy, a general commission to the like effect, with such variations as may be necessary or expedient, may from time to time be issued in duplicate under the great seal, directed to the masters by name, jointly and sever-

§ 39.

ally, who shall by virtue thereof proceed, in each case of alleged lunacy concerning which the lord chancellor intrusted as aforesaid shall order them to inquire, in like manner and with all the like powers and authorities (subject to the provisions hereinafter contained) as if a commission had issued specially in such case, and every inquisition found and returned thereon shall be as valid and effectual to all intents and purposes as if the same had been found and returned on a separate commission.

116. Where the alleged lunatic is within the jurisdiction, he shall have notice of the presentation of the petition for inquiry, and may, by a notice, signed by him, and attested by his solicitor, and filed with the registrar, either before the presentation of the petition or within seven days after such notice had by him as aforesaid, or at or within such other time as the lord chancellor intrusted as aforesaid shall order in the particular case, demand an inquiry before a jury.

§ 40.
Inquiry by
jury may be
demanded.

117. Where the alleged lunatic demands an inquiry before a jury, the lord chancellor intrusted as aforesaid shall in his order for inquiry direct the return of a jury unless he be satisfied, by personal examination of the alleged lunatic, that he is not mentally competent to form and express a wish for an inquiry before a jury; and the lord chancellor intrusted as aforesaid may, where he shall deem it necessary, after presentation of the petition for inquiry, and for the purpose of personal examination, require the alleged lunatic to attend him at such convenient time and place as he may appoint.

§ 41.
Upon demand,
examination
by lord chan-
cellor.

118. Where the alleged lunatic does not demand an inquiry before a jury, or the lord chancellor intrusted as aforesaid is satisfied by personal examination of him that he is not mentally competent to form and express a wish in that behalf, and it appears to the lord chancellor intrusted as aforesaid, upon consideration of the evidence adduced before him on the petition for inquiry, and of the circumstances of the case, so far as they are before him, to be unnecessary or inexpedient that the inquiry should be before a jury, and he accordingly does not in his order for inquiry direct the return of a jury, then the masters shall, by virtue of

§ 42.
When jury
may be dis-
penssed with.

their general commission, and under such order for inquiry, but without a jury, personally examine the alleged lunatic, and take such evidence, upon oath or otherwise, and call for such information, as they may think fit, or the lord chancellor intrusted as aforesaid may direct, in order to ascertain whether or not the alleged lunatic is of unsound mind, and shall certify their finding thereon.

119. Where the lord chancellor intrusted as aforesaid, under such circumstances as hereinbefore mentioned, does not in his order for inquiry direct the return of a jury, but the masters acting under the commission, upon consideration of the evidence before them, certify to him that in their opinion an inquiry before a jury is expedient, they shall, without further order, issue their precept to the sheriff, and shall proceed in like manner in all respects, and their proceedings shall be as valid and effectual, to all intents and purposes, as if the lord chancellor intrusted as aforesaid had directed the return of a jury in the first instance.

§ 43.
Jury to be
had upon
masters'
certificate.

120. Where the masters certify that the alleged lunatic is of unsound mind, and incapable of managing himself or his affairs, or that he is of unsound mind, and incapable of managing himself or his affairs, and has been so from a time past, or, on the contrary, certify that the alleged lunatic is of sound mind, and capable of managing himself and his affairs, the certificate shall be and be deemed to be an inquisition, and be of the same force and effect, to all intents and purposes, and be returned, filed, and proceeded on in the same manner in all respects as an inquisition taken upon the oath of a jury.

§ 44.
Certificate of
master, with-
out a jury to
be deemed an
inquisition.

121. Where the alleged lunatic is not within the jurisdiction, the inquiry shall be before a jury, and no further or other notice shall be necessary to be given to him than he would have been entitled to receive if this Act had not been passed.

§ 45.
Jury if luna-
tic is out of
jurisdiction.

122. The lord chancellor may from time to time, by order, regulate the number of jurors to be sworn, but so that every inquisition upon the oath of a jury be found by the oaths of twelve men, at the least.

123. The inquiry, whether with or without a jury, shall, as

far as relates to the state of mind of the alleged lunatic, be confined to the question whether or not the alleged lunatic is of unsound mind, and incapable of managing himself or his affairs, at the time of the inquiry, except where the lord chancellor intrusted as aforesaid, under special circumstances, shall direct that there be also an inquiry from what time the alleged lunatic has been of unsound mind, and incapable of managing himself or his affairs, or shall direct that there be also an inquiry whether or not the alleged lunatic was of unsound mind, and incapable of managing himself and his affairs, at a previous time specified, and thenceforth down to the time of the inquiry.

§ 47.
Inquiry before jury to be limited to what.

124. The person executing an inquiry with a jury shall, while so employed, have all the like powers, authorities, and discretion as a judge of a court of record.

§ 48.
Judicial powers.

125. [§ 49. The foregoing provisions prospective only.]

126. [§ 50. Nothing to preclude the lord chancellor from issuing a special commission.]

127. [§ 51. Reference in other Acts to commission, shall apply to general commission hereby authorised to be issued.]

128. [§ 52. Inquisition and supersedeas may be transmitted from and to Ireland and England, and to be acted on there respectively.]

129. [§ 53. Proceedings under 8 and 9 Vict., ch. 100, to be discontinued.]

130. [§ 54. Inquiry may be ordered on report of commissioners.]

131. [§§ 55-103. Proceedings before master with reference to estates of lunatics.]

132. The visitors shall respectively, within a convenient time after each visit, make a report in writing to the lord chancellor intrusted as aforesaid of the state of mind and bodily health and of the general condition and also of the care and treatment of each person visited and seen by them respectively, which reports shall, annually or oftener, as the lord chancellor intrusted as aforesaid may direct or the board of visitors may think expedient, be submitted to the lord chancellor intrusted as aforesaid; and the visitors respectively shall make separate or special reports on any case to the lord chancellor intrusted as aforesaid

§ 106.
Visitors to report to lord chancellor.

as and when they or the board of visitors may think expedient, and in particular shall report to him, without delay, any instance in which they respectively, on proceeding to visit, have been unable to discover the then residence of or have been by any other circumstance prevented from actually seeing on that occasion the lunatic whom they intended to visit.

133. The reports of the visitors shall be filed and kept secret in their office, and shall be open to the inspection of no person save the members of the board of visitors, their secretary, and his clerk, and the lord chancellor intrusted as aforesaid, and such persons as he may specially appoint; and all the reports relating to any particular patient shall be destroyed on the death of the patient, and shall also be destroyed on the inquisition in his case being superseded, or being vacated and discharged on a traverse, unless the lord chancellor intrusted as aforesaid, within fourteen days after the supersedeas, or the vacating and discharge on a traverse, specially order that the same be not destroyed until death.

§ 107.
Visitors' reports to be kept secret and destroyed on death of lunatic.

134. [§§ 108–147. Management of estates by committee.]

135. [§§ 148–153. Traverse and supersedeas of inquisition.]

LUNACY ACT, CHAPTER 96.

16 & 17 Vict., ch. 96; Chitty, vol. 3, p. 147.

136. Whereas an Act was passed in the ninth year of her majesty, “For the Regulation of the Care and Treatment of Lunatics:” and whereas it is expedient to amend the said Act, as hereinafter mentioned; be it therefore enacted as follows: Any one licence to be granted for the reception of lunatics may, in the discretion of the commissioners or justices granting such licence, include two or more houses belonging to one proprietor or to two or more joint proprietors, provided, that no one of such houses be separated from the other or others of them otherwise than by land in the same occupation, and by a road, or by either of such modes; and all houses, buildings, and lands intended to be included in any licence shall be specified, delineated, and described in the plan required by section 24 of the said recited Act.

§ 1.
16 & 17 Vict.,
ch. 100,
amended.
What may be
included in
one licence.

137. No person having, after the passing of the said recited Act, received for the first time a licence for the reception of lunatics, or hereafter receiving for the first time such licence, shall receive a licence unless ^{§ 2.} he shall reside on the premises licensed; and no two or more persons having after the passing of the said recited Act received for the first time a joint licence for the reception of lunatics, or hereafter receiving for the first time such licence, shall receive such licence unless they or one of them shall reside on the premises licensed. ^{Persons receiving licence to reside on premises.}

138. [§ 3. Sections 45-49, of 8 & 9 Vict., ch. 100, repealed.]

139. Save as hereinafter otherwise provided, no person (not being a lunatic) or for or in respect of whom any money shall be paid or agreed to be paid shall be boarded or lodged in any licensed house; and save ^{§ 4.} where otherwise provided or authorised under this or any other Act, no person (not being a pauper) shall be received as a lunatic into any licensed house or hospital without an order under the hand of some person according to the form in schedule (A), No. 1, annexed to this Act, together with such statement of particulars as is contained in the same schedule, nor without the medical certificates, according to the form in schedule (A), No. 2, annexed to this Act, of two persons, each of whom shall be a physician, surgeon, or apothecary, and shall not be in partnership with or an assistant to the other, and each of whom shall separately from the other have personally examined the person to whom the certificates signed by him relates not more than seven clear days previously to the reception of such person into such house or hospital: and such order as aforesaid may be signed before or after the medical certificates or either of them; and every person who shall receive any such person as aforesaid into any such house or hospital as aforesaid (save where otherwise provided or authorised under this or any other Act) without such order and medical certificates as aforesaid shall be guilty of a misdemeanor. ^{Order and certificates necessary for admission.}

140. Provided, always, That any person (not a pauper) may, under special circumstances preventing the examination of such person by two medical practitioners as aforesaid, be received as a lunatic into any ^{§ 5.} ^{Person may be received upon certificate signed}

by one medical practitioner.

licensed house or any hospital upon such order as aforesaid, and with the certificate of one physician, surgeon, or apothecary alone, provided that the statement accompanying such order set forth the special circumstances which prevent the examination of such person by two medical practitioners; but in every such case two other such certificates shall, within three clear days after his reception into such house or hospital, be signed by two other persons, each of whom shall be a physician, surgeon, or apothecary, not in partnership with or an assistant to the other, or the physician, surgeon, or apothecary who signed the certificate on which the patient was received, and not connected with such house or hospital, and shall within such time and separately from the other of them have personally examined the person so received as a lunatic; and every person who, having received any person as a lunatic into any house or hospital as aforesaid upon the certificate of one medical practitioner alone as aforesaid, shall keep or permit such person to remain in such house or hospital beyond the said period of three clear days without such further certificates as aforesaid, shall be guilty of a misdemeanor.

141. Provided also, That it shall be lawful for the proprietor or superintendent of any licensed house, with the previous assent in writing of two of the commissioners, such assent not to be given until after such commissioners have, by personal examination of the patient, satisfied themselves of his desire to remain, to entertain and keep in such house as a boarder any person who may have been discharged as a patient from such house for such time after such discharge as he may desire to remain, not exceeding the time specified in such assent, and also for the benefit of any patient in such house, and with the previous assent in writing of two of the commissioners, to receive and accommodate as a boarder therein, for a time to be specified in the assent, any relative or friend of such patient, and any two of the commissioners may from time to time, by any writing under their hands, extend or revoke any such assent as aforesaid; and every such patient so retained after discharge, and every such relative or friend so accommodated, shall, if re-

§ 6.
Persons discharged may voluntarily remain in asylum.

quired, be produced to the commissioners and visitors respectively at their respective visits. *

142. Save where otherwise provided or authorised under any Act, no pauper shall be received into any licensed house or any hospital without an order according to the form in schedule (B), No. 1, annexed to this Act, under the hand of one justice, or under the hands of an officiating clergyman, and the relieving officer or one of the overseers of the union or parish from which such pauper shall be sent, together with such statement of particulars as is contained in the same schedule, nor without the medical certificate, according to the form in schedule (B), No. 2, annexed to this Act, of a physician, surgeon, or apothecary, who shall have personally examined the pauper to whom it relates not more than seven clear days previously to his reception; and every person who shall receive any pauper into any such house or hospital as aforesaid (save where otherwise provided or authorised under any Act) without such order and medical certificate as last aforesaid shall be guilty of a misdemeanor; Provided always, that this enactment shall not by implication or otherwise give any power or authority to make such order, or extend, alter, or affect any power or authority expressly given by any Act to any justice, officiating clergyman, relieving officer, or overseer to make or join in making any such order, or any provisions giving or relating to such power or authority.

§ 7.
Pauper not
received with-
out a certain
order and cer-
tificate.

143. Where, under section ninety of the said recited Act the like order and medical certificates are required on the reception or taking the charge or care of any one person as a lunatic or alleged lunatic as are hereinbefore required on the reception of a patient (not being a pauper) into a licensed house, the like order and medical certificates (in lieu of those required as first aforesaid) shall hereafter be required on the reception or taking the charge or care of any such person as are by this Act required on the reception of a patient (not being a pauper) into a licensed house.

§ 8.
Like order and
certificate for
reception of
single patient.

144. If any superintendent, officer, nurse, attendant, servant,

* See 18 and 19 Vict., ch. 100, § 16, pl. 289.

§ 9.
Penalty for
cruelty to
patients.

or other person employed in any registered hospital or licensed house, or any person having the care or charge of any single patient, or any attendant of any single patient in any way abuse, or ill-treat, or wilfully neglect any patient in such hospital or house, or such single patient, or if any person detaining, or taking or having the care or charge, or concerned or taking part in the custody, care, or treatment of any lunatic or person alleged to be a lunatic, in any way abuse, ill-treat, or wilfully neglect such lunatic or alleged lunatic, he shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds.

§ 10.
Medical
certificates,
requisites.

145. Every physician, surgeon, and apothecary signing any certificate under or for the purposes of this Act shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is a lunatic, an idiot, or a person of unsound mind, and distinguish in such certificate facts observed by himself from facts communicated to him by others; and no person shall be received into any registered hospital or licensed house, or as a single patient, under any certificate which purports to be founded only upon facts communicated by others.

§ 11.
Amendment
of orders and
certificates.

146. If after the reception of any lunatic it appear that the order or the medical certificate, or (if more than one) both or either of the medical certificates, upon which he was received, is or are in any respect incorrect or defective, such order or medical certificate or certificates may be amended by the persons signing the same at any time within fourteen days next after the reception of such lunatic; Provided nevertheless, that no such amendment shall have any force or effect unless the same shall receive the sanction of one or more of the commissioners.

§ 12.
Who may not
sign orders
and certifi-
cates.

147. No physician, surgeon, or apothecary who, or whose father, brother, son, partner, or assistant, is wholly or partly the proprietor of, or a regular professional attendant in, a licensed house or a hospital, shall sign any certificate for the reception of a patient into such house or hospital; and no physician, surgeon, or apothecary

shall himself, or by his servants or agents, receive to board or lodge in any unlicensed house, or take the charge or care of any person upon or under any medical certificate signed by himself or his father, brother, son, partner, or assistant, and no physician, surgeon, or apothecary having (either before or after the passing of this Act) signed any certificate for the reception of any person shall be the regular professional attendant of such person while under care or charge under such certificate; and no physician, surgeon, or apothecary who, or whose father, brother, son, partner, or assistant, shall sign the order hereinbefore required for the reception of a patient, shall sign any certificate for the reception of the same patient.

148. Any physician, surgeon, or apothecary who shall sign any certificate, or do any other act (not declared to be a misdemeanor) contrary to any of the provisions herein contained, shall for every such offence forfeit any sum not exceeding twenty pounds; and any physician, surgeon, or apothecary who shall falsely state or certify anything in any certificate under this Act, and any person who shall sign any certificate under this Act in which he shall be described as a physician, surgeon, or apothecary, not being a physician, surgeon, or apothecary respectively within the meaning of this Act, shall be guilty of a misdemeanor.

149. It shall be lawful for the commissioners, by an order under their common seal, where they see fit so to do, to permit the visitation of any single patient by a physician, surgeon, or apothecary less frequently than once in every two weeks, as required by section ninety of the said recited Act, and to prescribe from time to time how often any single patient shall be visited by such a physician, surgeon, or apothecary as therein mentioned; but where such visitation of any single patient so often as once in every two weeks is so dispensed with, and such patient is in the care or charge of a physician, surgeon, or apothecary, such physician, surgeon, or apothecary shall once at the least in every two weeks make an entry in a book to be kept for that purpose, to be called "The Medical Journal," of the condition of the patient's health, both mental and bodily, together with the date of such entry, and such book shall be produced to the visiting commissioner on every visit, and shall be signed by him as having been so

§ 13.
False certifi-
cates, penal-
ties for.

§ 14.
Visitation, en-
tries of.

produced, and every such physician, surgeon, or apothecary who shall make an untrue entry in the said book shall be guilty of a misdemeanor.

150. It shall be lawful for one or more of the visitors appointed in or for any county or borough under the said recited Act, upon the request in writing of the commissioners, or any two of them, under their hands, so to do, to visit any person detained in any unlicensed house in such county or borough as a single patient, and to inquire into and report to the commissioners on the treatment and state of health, bodily and mental, of such patient, and to inspect the order and certificates on which such person was received; and the provisions of the said recited Act for and concerning the remuneration or payment of any such visitor, being a physician, surgeon, or apothecary, in respect of the execution of the duties of that Act, and for the payment of the costs, charges, and expenses incurred by any visitor in proceedings under that Act, shall extend and be applicable to and for the remuneration or payment of any visitor, being a physician, surgeon, or apothecary, visiting as aforesaid any single patient, and to and for the payment of the costs, charges, and expenses incurred by any visitor in or about such visit as aforesaid.

151. Every physician, surgeon, and apothecary who visits any single patient, or under whose care or charge any single patient shall be, shall on the 10th day of January, or within seven days from that time, in every year report in writing to the commissioners the state of health, bodily and mental, of such patient, with such other circumstances as he may deem necessary to be communicated to the commissioners; and it shall be lawful for the commissioners, at any other time and from time to time as they see occasion, to call for and require from any such physician, surgeon, or apothecary a report in writing relative to any single patient, visited by him or under his care or charge in such form, and specifying such particulars as the commissioners may direct.

152. The provisions contained in sections seventy-two and seventy-three of the said recited Act for the discharge of patients (not being paupers) from licensed houses shall extend and be applicable to and for the discharge of any single patient: Provided always, that this enact-

§ 15.
Visitation
upon request
of commis-
sioners.

§ 16.
Report of
visitation.

§ 17.
Discharge of
single pa-
tients.

ment shall not extend to authorise the discharge of any single patient if the physician, surgeon, or apothecary who has the care or charge of or visits such patient certify in writing under his hand that in his opinion such patient is dangerous, and unfit to be at large, together with the ground on which such opinion is founded, unless one of the commissioners shall consent in writing to the discharge of such patient.

153. It shall be lawful for the lord chancellor, upon the report of the commissioners in lunacy, to order the discharge of any person received or detained as a single patient, or to give such orders and directions in reference to such patient as the lord chancellor shall think fit; and any person detaining any such patient for the space of three days, after a copy of such order for his discharge shall have been served on him, or left at the house in which such person so ordered to be discharged is detained, shall be guilty of a misdemeanor.

§ 18.
Discharge by
lord chancellor
upon re-
port of com-
missioners.

154. The superintendent or proprietor of every registered hospital and licensed house, and every person having the care or charge of any single patient, shall forthwith, upon the recovery of any patient in such hospital or house, or of such single patient, transmit notice of such recovery in the case of a patient not a pauper to the person who signed the order for his reception, or by whom the last payment on account of such patient was made, and in the case of a pauper to the guardians of his union or parish, or if there be no such guardians to one of the overseers of the poor of his parish, or if such pauper be chargeable to any county to the clerk of the peace thereof, and in case such patient be not discharged or removed within fourteen days from the giving of such notice, such superintendent, proprietor, or person as aforesaid shall immediately after the expiration of such period transmit notice of the recovery of such patient to the commissioners, and also, in the case of a licensed house within the jurisdiction of any visitors, to the clerk of such visitors, with the date of the notice firstly in this enactment mentioned, and where notice is so given to the clerk of any visitors he shall forthwith communicate the same to the visitors, or two of them, one of whom shall be a physician, surgeon, or apothecary; and in case of the death of any patient in any hospital or licensed

§ 19.
Discharge
upon re-
covery.

house, a statement setting forth the time and cause of the death, and the duration of the disease of which such patient died, shall be prepared and signed by the medical person or persons who attended the patient during the illness which terminated in death, and such statement shall be entered in the Provision in case of death. "case book," and a copy of such statement, certified by the superintendent or proprietor, shall, within two days of the date of the death, be transmitted to the coroner for the county or borough, and in case such coroner, after receiving such statement, shall think that any reasonable suspicion attends the cause and circumstances of the death of such patient, he shall summon a jury to inquire into the cause of such death.

155. Any person, having the authority to order the discharge § 20. Transfer of private and single patients. of any patient (not being a pauper) from any asylum, registered hospital, or licensed house, or of any single patient, may, with the previous consent in writing of two of the commissioners, direct, by an order in writing under his hand, the removal of such patient to any asylum, registered hospital, or licensed house, or to the care or charge of any person mentioned or named in such order; and every such order and consent shall be made and given respectively in duplicate, and one of the duplicates shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house from which or the person from whose care or charge the patient is ordered to be removed, and the other duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house into which or the person into whose care or charge the patient is ordered to be removed; and such order for removal, together with such consent in writing, shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, registered hospital, or licensed house into which or by the person into whose care or charge he is ordered to be removed: Provided always, that a copy of the order and certificates upon which such patient was received into the asylum, hospital, or house from which he is removed, or as a single patient, by the person from whose care he is removed, certified under the hand of the superintendent or proprietor of such asylum, hospital, or house, or of such person as last aforesaid, to be a true copy, shall be

furnished by him free of expense, and shall be delivered, with one duplicate of the said order of removal and consent, to the superintendent or proprietor of the asylum, hospital, or house to which or to the person to whose care or charge such patient is removed.

156. Every person from whose care or charge any single patient shall be discharged shall transmit to the commissioners a written notice of such discharge within the like period, and under the like penalty for default, as by the said recited Act is required and provided in the case of the discharge of a patient from a licensed house.

§ 21.
Notice of discharge of single patients.

157. It shall be lawful for any person having the care or charge of a single patient to change his residence, and remove such patient to any new residence of such person in England, provided that seven clear days before such change of residence he give notice in writing thereof, and of the place of such new residence, to the commissioners and to the person who signed the order for the reception of such patient, or by whom the last payment on account of such patient was made; and it shall be lawful for any person having the care or charge of any single patient, having first obtained the consent of two of the commissioners, to take or send such patient, under proper control, to any specified place or places, for any definite time, for the benefit of his health: Provided always, that before any such consent shall be given, the approval in writing of the person who signed the order for the reception of such patient, or by whom the last payment on account of such patient was made, shall be produced to such commissioners, unless they shall, on cause being shown, dispense with the same.

§ 22.
Change of residence of person in charge of single patient.

158. [§ 23. On representation of commissioners lord chancellor may require statement of property of lunatic detained for one year.]

159. The notice of admission and statement mentioned or referred to in section 52 of the said recited Act shall hereafter be according to the form mentioned in schedule (C) annexed to this Act, in lieu of the form set forth in schedule (F) to the said recited Act; and such statement shall be signed by the medical superintendent, pro-

§ 24.
Form of notice of admission.

prietor, or attendant of the hospital or licensed house from which the same is sent, and the said notice and statement shall be accompanied by a copy of the several documents mentioned in the said notice.

160. The medical visitation book mentioned in section 59 of the said recited Act shall henceforth be kept in the form set forth in schedule (D) annexed to this Act, in lieu of the form set forth in schedule (H) to the said recited Act; and the said section shall be construed as if the particulars mentioned in the several heads of the said form in the said schedule (D) had by the said section been required to be entered in the said book in lieu of the particulars mentioned in the said section.

§ 25.
Form of medical visitation book.

161. The superintendent or proprietor of every registered hospital or licensed house shall, within one week after the dismissal for misconduct of any nurse or attendant employed in such hospital or house, transmit to the commissioners, by the post, information in writing under his hand of such dismissal, and of the cause thereof; and every superintendent or proprietor neglecting to transmit such information to the commissioners within the period aforesaid shall for every such offence forfeit any sum not exceeding ten pounds.

§ 26.
Dismissal of attendants, notice to commissioner.

162. Section 89 of the said recited Act, constituting from among the commissioners a private committee for the purposes in the said Act mentioned, shall be repealed and all the powers vested in, and all the provisions of the said Act applicable to, the said private committee, or one or two members thereof, shall be vested in and be applicable to the commissioners, or one commissioner, or two commissioners (as the case may require), as if, where in the said Act the said private committee, or one member or two members, thereof (as the case may be), is or are mentioned or referred to, the commissioners, or one commissioner or two commissioners (as the case may require), had been mentioned or referred to, instead thereof.

§ 27.
Powers of private committee vested in commissioners.

163. Section 111 of the said recited Act shall be repealed, and any one or more of the commissioners shall and may on such day or days, and at such hours in the day, and for such length of time as he or they shall think fit,

§ 28.
Visitation of workhouses.

visit all such parish and union workhouses in which there shall be or be alleged to be any lunatic, as the commissioners shall by any resolution or resolutions of the board direct, and shall inquire whether the provisions of the law as to lunatics in such parish or union have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics in such workhouses, and shall report in writing thereon to the poor-law board.

164. It shall be lawful for the commissioners, where, for any reasons to be entered upon the minutes of the board, any case appears to them specially to call for immediate investigation, to authorise and direct, by an order under their common seal, any competent person or persons to visit and examine and report to them upon the mental and bodily state and condition of any lunatic or alleged lunatic in any asylum, hospital, or licensed house, or of any pauper lunatic in a workhouse or elsewhere, or of any lunatic or alleged lunatic under the care or charge of any person as a single patient, and to inquire into and report upon any matters into which the commissioners are authorised to inquire; and every such person shall, for the special purposes mentioned in such order, have all the powers of a commissioner; and the commissioners may allow to every such person a reasonable sum for his services and expenses, such sum to be paid in manner provided by the said recited Act with regard to expenses incurred by or under the authority of the commissioners in proceedings thereunder; but this enactment shall not be taken to exonerate the commissioners from the performance of any duty by law imposed on them.

165. The committee having the management or government of every registered hospital shall, within three months after the passing of this Act in the case of every hospital now registered, and within three months after the registration of every hospital hereafter to be registered under the said recited Act, submit the existing regulations, or regulations to be framed by such committee, to one of her majesty's principal secretaries of state, for his approval, and any such committee may, with the like approbation, alter and vary such regulations as they think necessary; and all such regulations so approved shall be

§ 29.
Employment
of person to
visit and re-
port.

§ 30.
Regulations
for asylums
submitted to
secretary of
state.

printed, abided by, and observed, and a copy thereof shall be sent to the commissioners, and another copy thereof kept hung up in the visitors' room of the hospital.

166. It shall be lawful for the commissioners, with the sanction and approbation of one of her majesty's principal secretaries of state, from time to time to make regulations for the government of any house licensed for the reception of lunatics; and such regulations of the commissioners, or a copy thereof, shall be transmitted by their secretary to the proprietor or resident superintendent of every licensed house to which the same relate, and shall be abided by and observed therein.

§ 31.
Regulations
for govern-
ment of
licensed
houses.

167. [§ 32. Time at which reports of commissioners to the lord chancellor as to state of asylums, etc., are to be made.]

168. [§ 33. Payment of persons visiting under section 112 of 8 & 9 Vict., ch. 100.]

169. Any person who wilfully obstructs the commissioners or any of them, or any other person authorised by an order in writing under the hand of the lord chancellor or her majesty's principal secretary of state for the home department, pursuant to the provisions of section one hundred and twelve or one hundred and thirteen of the said recited Act, to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any asylum, hospital, gaol, house, or place wherein any lunatic or person represented to be a lunatic is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the commissioners to make any visit and examination or inquiry in the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be liable) forfeit for every such offence any sum not exceeding twenty pounds.

§ 34.
Penalty on per-
sons obstructing
execution of
orders.

170. [§ 35. Section 116 of recited Act repealed, and Bethlehem hospital to be subject to this Act.]

171. [§ 36. Interpretation of terms.]

172. [§ 37. Recited Act and this Act to be construed as one Act, etc.]

173. [§ 38. Act not to affect provisions relating to criminal

lunatics, 39 & 40 Geo., 3, ch. 94, 1 & 2 Vict., ch. 14, and 3 & 4 Vict., ch. 54, save as herein provided.]

174. [§ 39. Secretary to the commissioners, if at the time of his appointment a practising barrister of five years' standing, eligible to be appointed a commissioner.]

SCHEDULE (A), No. 1; SECTIONS 4, 8.

Order for the Reception of a Private Patient.

I, the undersigned, hereby request you to receive A. B., a lunatic [or an idiot, or a person of unsound mind], as a patient into your house [or hospital]. Subjoined is a statement respecting the said A. B.

(Signed)	Name.
	Occupation (if any).
	Place of abode.
	Degree of relationship (if any) or other circumstance of connection with the patient.

Dated this day of one thousand eight hundred and .

To proprietor [or superintendent] of [describing the house or hospital by situation and name, if any.]

STATEMENT.

[If any particulars in this statement be not known, the fact to be so stated.]

Name of patient, with christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known), on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found lunatic by inquisition, and date of commission or order for inquisition.

Special circumstances (if any) preventing the patient being examined, before admission, separately by two medical practitioners.

(Signed)

Name.

[Where the person signing the statement is not the person who signs the order, the following particulars concerning the person signing the statement are to be added: viz.,]

Occupation (if any)

Place of abode.

Degree of relationship (if any) or other circumstances of connection with the patient.

SCHEDULE (A), No. 2; SECTIONS 4, 5, 8, 10, 11, 12, 13.

Form of Medical Certificate.

I, the undersigned [here set forth the qualification entitling the person certifying to practise as a physician, surgeon, or apothecary, ex. gra., being a fellow of the Royal College of Physicians in London], and being in actual practice as a [physician, surgeon, or apothecary, as the case may be], hereby certify that I, on the day of at [here insert the street and number of the house (if any) or other like particulars] in the county of , separately from any other medical practitioner, personally examined A. B., of [insert residence and profession or occupation, (if any)], and that the said A. B. is a lunatic [or an idiot, or a person of unsound mind], and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds, viz.:

1. Facts indicating insanity observed by myself [here state the facts].

2. Other facts (if any) indicating insanity communicated to me by others [here state the information, and from whom].

(Signed)

Place of abode.

Dated this day of one thousand eight hundred
and .

SCHEDULE (B), No. 1, SECTION 7.

Order for the Reception of a Pauper Patient.

I, C. D. [or, in the case of a clergyman and relieving officer, etc., We, C. D. and E. F.], the undersigned, having called to my [or our] assistance a physician [or surgeon, or apothecary, as the case may be], and having personally examined A. B., a pauper, and being satisfied that the said A. B. is a lunatic [or an idiot, or a person of unsound mind], and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said A. B. as a patient into your house [or hospital]. Subjoined is a statement respecting the said A. B.

Signed C. D., a justice of the peace for the county, city, or borough of [or an, or the, officiating clergyman of the parish of].

Signed E. F., the relieving officer of the union or parish of [or an overseer of the parish of].

Dated the day of one thousand eight hundred and .

To proprietor [or superintendent] of [describing the house or hospital].

STATEMENT.

[If any particulars in this statement be not known, to be so stated.]

Name of patient and christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Parish or union to which the lunatic is chargeable.

Name and christian name and place of abode of nearest known relative of the patient, and degree of relationship (if known).

I certify that, to the best of my knowledge, the above particulars are correctly stated.

(Signed)

Relieving officer [or overseer].

SCHEDULE (B), No. 2; SECTIONS 7, 10, 11, 12, 13.

Form of Medical Certificate.

I, the undersigned [here set forth the qualification entitling the person certifying to practise as a physician, surgeon, or apothecary, ex. gra., being a fellow of the royal college of physicians in London], and being in actual practice as a [physician, surgeon, or apothecary, as the case may be], hereby certify that I, on the day of at [here insert the street and number of the house (if any) or other like particulars], in the county of personally examined A. B. of [insert residence and profession or occupation (if any)], and that the said A. B. is a [lunatic, or an idiot, or a person of unsound mind], and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds, viz:

1. Facts indicating insanity observed by myself [here state the facts].

2. Other facts (if any) indicating insanity communicated to me by others [here state the information, and from whom].

(Signed)

Place of abode.

Dated this day of 18 .

SCHEDULE (C), SECTION 24.

Notice of Admission.

I hereby give you notice, that A. B. was admitted into this house [or hospital] as a private [or pauper] patient on the day of and I hereby transmit a copy of the

order and medical certificates [or certificate] on which he was received. [If a private patient be received upon one certificate only, the special circumstances which have prevented the patient from being examined by two medical practitioners to be here stated, as in the statement accompanying the order for admission.]

Subjoined is a statement with respect to the mental and bodily condition of the above named patient.

(Signed)

Superintendent [or proprietor]

of

Dated the day of 18 .

STATEMENT.

I have this day [some day not less than two clear days after the admission of the patient] seen and examined the patient mentioned in the above notice, and hereby certify that with respect to mental state he [or she] , and that with respect to bodily health and condition he [or she]

(Signed)

Medical proprietor [or superintendent, or attendant]

of

Dated the day of 18 .

LUNACY ACT, CHAPTER 97.

16 & 17 Vict., ch. 97; Chitty, vol. 3, p. 156.

[§ 1, Repeals 8 & 9 Vict., ch. 126, 9 & 10 Vict., ch. 84, and 10 & 11 Vict., ch. 43, but not to affect appointments, etc.]

175. The justices of every county and (save as hereinafter otherwise provided) of every borough not having an asylum for the pauper lunatics thereof, shall provide an asylum in manner herein directed (that is to say), the justices of every such county and the recorder of every such borough shall at or before the general or quarter sessions for such county or borough next after the twentieth day of December, one thousand eight hundred and fifty-three, direct public notice to be given by the clerk of the peace of such county or borough, in some newspaper or newspapers commonly circulated in such county or borough, of the intention of the justices of such county or borough to appoint at the then next general or quarter sessions for such county, or (in the case of a borough) at a special meeting of the justices of such borough to be fixed in such notice, and to be holden within three months from the date thereof, a committee of justices to provide an asylum for the pauper lunatics of such county or borough, under the provisions of this Act; and the clerk of the peace of such county or borough shall, within ten days after being so directed as aforesaid, cause such notice to be given accordingly.

§ 2.
Justices of
counties and
boroughs not
having asy-
lums, to pro-
vide one.

Notice of in-
tention to ap-
point com-
mittee.

176. [§ 3. Justices to appoint a committee to superintend the providing of an asylum, or to treat for uniting with some county, etc., or to affect one or other of such purposes.]

177. [§ 4. Subscribers to any hospital empowered to appoint a committee to treat for uniting with any county or borough, etc.]

178. [§ 5. Committees of visitors of existing asylums may enter into agreements to unite.]

179. [§ 6. Where a committee is already appointed.]

180. [§ 7. Justices of boroughs may contract with committees, etc., for reception of the pauper lunatics of the borough.]

181. [§ 8. Boroughs now contributing to a county asylum deemed to have an asylum, but upon notice may separate from the county.]

182. [§ 9. Every borough not having six justices, besides the recorder, to be annexed to the county or one of the counties in which it is situate, for the purposes of this Act. Recorder to appoint two justices to be members of committee of visitors.]

183. [§10. Boroughs neglecting to provide an asylum or to contract for the care of their pauper lunatics may be annexed by secretary of state to the county. Justices of borough so annexed shall appoint two justices to be members of the committee of visitors.]

184. [§ 11. Powers of committees may be enlarged.]

185. [§ 12. New committees to be appointed in lieu of committees which have ceased or shall hereafter cease to exist, etc.]

186. [§ 13. Notice for appointment of a committee given at a time subsequent to that required by this Act, and the appointment of such committee.]

187. [§ 14. Committees uniting to enter into agreement in the form in schedule (A).]

188. [§ 15. Additional stipulations or conditions may be inserted in agreement, but not so as to subject acts of visitors to control of general or quarter sessions.]

189 [§ 16. With consent of visitors, stipulations or conditions may be repealed.]

190. [§ 17. Proportions of expenses and of visitors may be varied on any further union being effected.]

191. [§ 18. As to payment and application of money paid toward prior expenses, or becoming repayable under agreement for further union.]

192. [§ 19. Committees of justices to report agreement to quarter sessions, and the original to be delivered to clerk of the peace of the county or borough in which the asylum is situate, and a copy to clerk of the peace of each other county or borough.]

193. [§ 20. After agreement for uniting is reported, visitors to be elected for carrying same into effect.]

194. [§ 21. Committee authorised to superintend the erection of asylums to be deemed committee of visitors.]

195. [§ 22. Visitors to be elected annually for asylums.]

196. [§ 23. A separate committee of visitors to be appointed for every asylum.]

197. [§ 24. Meetings of visitors.

Every committee to elect a chairman.

Number of members to constitute a meeting.

Questions how to be decided.]

198. [§ 25. Clerk, on requisition of chairman or two visitors, or of superintendent, to call meetings of visitors. Chairman may convene meetings.]

199. [§ 26. Visitors to appoint a clerk.]

200. [§ 27. Committee of visitors to continue until first meeting of new committee, and in default of election of new committee to continue as if re-elected.]

201. [§ 28. Provisions for supplying vacancies in committees.

Continuing members may act.]

202. [§ 29. Secretary of state may require any county or borough not having an asylum to provide one.]

203. [§ 30. Where accommodation of existing asylum is inadequate, additional asylum to be provided, or existing asylum enlarged.]

204. [§ 31. When an asylum or additional asylum or accommodation is required, the visitors to procure and determine on plans and estimates, and to contract for the purchase of land and buildings, and for erecting, etc., the necessary buildings.

Contractors to give security.

Contracts and orders to be entered in a book, to be deposited, and to be open to inspection.

Visitors to report.]

205. [§ 32. Powers to visitors to purchase in consideration of a rent reserved.]

206. [§ 33. Power for visitors to take a lease for rent.]

207. [§ 34. Asylum may be erected beyond the limits of any county or borough, and justices of such county or borough may notwithstanding act therein.]

208. [§ 35. Assessment to local rates not to be increased after purchases for the purposes of this or any former Act.]

209. [§ 36. Certain provisions of 8 & 9 Vict. ch. 18, incorporated, and extended to authorise exchanges.]

210. [§ 37. Provision for the appointment of new trustees or land purchased or acquired for asylum.]

211. [§ 38. Visitors to order all ordinary repairs of asylums, provided they do not exceed £400 per annum.

As to payment of expenses of repairs, etc. No order for payment of money exceeding £100 to be made unless notice has been given of the meeting at which the same shall be ordered.]

212. [§ 39. Power of visitors, with consent of secretary of state, to dissolve unions.]

213. [§ 40. Power for visitors, with consent of secretary of state, to sell or exchange lands and buildings.

Application of purchase moneys.]

214. [§ 41. Visitors may, with consent of secretary of state, get released from contracts.

215. [§ 42. Visitors empowered to contract for the reception of pauper lunatics into asylums of other counties or hospitals or licensed houses.

Period of such contract limited.

As to money payable under contract for reception of lunatics into any asylum.]

216. [§ 43. When any asylum can accommodate more than the lunatics of the county or borough, visitors may order the admission of other lunatics.]

217. [§ 44. No visitor to have any interest in any contract or agreement.]

218. [§ 45. Plans, etc., to be submitted to commissioners in lunacy, and approved by secretary of state.]

219. [§§ 46-52. Provisions for raising money.]

220. Every committee of visitors shall, within twelve months after the passing of this Act, in the case of every asylum already established, and general rules for the government whereof have not been already submitted to one of her majesty's principal secretaries of state, and within twelve months after the completion of every asylum hereafter established, submit the existing general rules, or general rules to be prepared by such committee, for the government of the asylum, under their superintendence to one of her majesty's principal secretaries of state for his approval; and such rules, when approved by him, shall be printed, abided by, and observed; and every such committee shall have power, with the like approbation, to alter and vary such rules, from time to time as they think necessary; and every such committee shall make from time to time such regulations and orders as they think fit, not inconsistent

§ 43.
Visitors to
make rules
and determine
diet of pa-
tients.

with the general rules for the time being in force for the management and conduct of the asylum, and in such regulations there shall be set forth the number and description of officers and servants to be kept, the duties to be required of them, and the salaries to be paid to them respectively; and every such committee shall from time to time determine the diet of the patients; and in and by such regulations such committee may direct that any number of beds in such asylum, and in such respective parts thereof as such committee may think fit, shall be always reserved for such cases as in and by such regulations shall be in this behalf mentioned; and in such case such asylum shall for the purpose of this Act, as respects the admission of all cases not within the description or class for which such beds are reserved, be deemed full when there are no vacant beds in such asylum except those so reserved, but nevertheless it shall be in the power of the committee of visitors of such asylum for the time being to fill the beds so reserved as they may deem expedient; and any such committee may, if they see fit, by any such regulations or order, exclude from admission into the asylum persons affected with any disease or malady which such committee may deem contagious or infectious, and persons coming from any district or place in which any such disease or malady may be prevalent.

221. Every committee of visitors shall fix a weekly sum to be charged for the lodging, maintenance, medicine, clothing, and care of each pauper lunatic confined in such asylum, of such amount that the same may be sufficient to defray the whole expense of the lodging, maintenance, care, medicine, and clothing, and other expenses requisite for each pauper lunatic, and that the total amount of such weekly sums, after defraying such expenses, may also be sufficient to pay the salaries of the officers and attendants, and such committee may from time to time alter the amount of such weekly sum as occasion may require; Provided always, that any such committee may, if they think fit, fix a greater weekly sum to be charged as aforesaid in respect of pauper lunatics other than those sent to such asylum from or settled in some parish or place situate in any county or borough to which such asylum belongs; Provided also, that such sum shall in no case exceed the rate of fourteen shillings per week; but if the aforesaid

§ 54.
Visitors to fix
weekly charges,
limit of.

rate of fourteen shillings be found insufficient for the purposes aforesaid, it shall be lawful for the major part of the justices of the county or borough, or of each county or borough to which such asylum may belong, present at any general or quarter sessions for such county, or at a special meeting of the justices of such borough, or each such county or borough respectively, to make such addition to such rate as to them respectively shall seem fit and necessary, and to make an order or orders accordingly, which order or orders shall be signed by the clerk of the peace for the county, or clerk to the justices for the borough, and forthwith published in some newspaper commonly circulated within such county or borough.

If rate found
insufficient,
justice may
increase.

222. The committee of visitors of every asylum shall appoint a chaplain for the same, who shall be in priests' orders, and shall be licensed by the bishop of the diocese, and the licence of any such chaplain as aforesaid, shall be revocable by the bishop whenever he shall think fit; and such chaplain, or his substitute approved by the visitors, shall perform and celebrate in the chapel of or in some convenient place within or belonging to such asylum, divine service according to the rites of the church of England as established by law, on every Sunday, Christmas day, and Good Friday, and shall also perform and celebrate such service within the said asylum at such other times, and also such other services according to the rites of the church of England as established by law, at such times as the visitors shall direct; and if any patient be of a religious persuasion differing from that of the established church, a minister of such persuasion, at the special request of such patient or his friends, shall, with the consent of the medical officer of such asylum, and under such regulations as he shall direct, be allowed to visit such patient at proper and reasonable times; and the committee of visitors of every asylum shall appoint a medical officer, who shall be resident in such asylum, and who shall not be clerk or treasurer of such asylum, and a clerk and treasurer, and such other officers and servants for the asylum as the committee may think fit; and the committee shall have power to remove the chaplain, medical officer, clerk, and treasurer, or any other officer or servant,

§ 55.
Visitors to ap-
point chap-
lain and other
officers.

Patients may
be allowed the
visits of min-
isters of their
own sect.

and shall from time to time, upon every vacancy, by death, removal, or otherwise, in the office of the chaplain, medical officer, clerk, and treasurer of the asylum, appoint some other person to such office, subject to the conditions and restrictions affecting the original appointment to such office, and may from time to time, fill up or not, as in their discretion they may think fit, vacancies among other officers and servants of the asylum; and the committee shall, if they think fit, have power to appoint a visiting physician or surgeon to every such asylum, and shall from time to time appoint the medical officer or one of the medical officers (if more than one) of the asylum, or where there is a separate medical officer of each division, then the medical officer or one of the medical officers, (if more than one) of each division, to be the superintendent of the asylum or of such respective division thereof, and may remove any such officer from being such superintendent, and such superintendent shall be resident in the asylum; and the committee shall, from time to time fix the salaries and wages to be paid to the officers and servants of the asylum: Provided always, that it shall be lawful for the said committee, with the sanction and approbation of one of her majesty's principal secretaries of state, to appoint any person other than such medical officer to be such superintendent: Provided also, that where on the tenth day of February, 1853, any person other than a resident medical officer was the superintendent of any asylum, such person may continue to be such superintendent as if this Act had not been passed, unless and until the committee otherwise direct.

223. The clerk of every asylum shall, within one week after the dismissal for misconduct of any nurse or attendant employed in such asylum, transmit to the commissioners in lunacy, by the post, information in writing under his hand of such dismissal, and of the cause thereof; and every such clerk neglecting to transmit such information to the said commissioners within one week after the dismissal of any such nurse or attendant shall for every such offence forfeit any sum not exceeding ten pounds.

§ 56.
Dismissal of
attendants,
notice to com-
missioners in
lunacy.

224. [§ 57. Visitors may grant superannuations to the superintendent, etc., not exceeding two-thirds of their salaries.]

225. The clerk of every asylum shall keep all books, docu-

§ 58.
Clerk of
asylum to
keep accounts
and reports.

ments, and instruments which the visitors of the asylum are required to keep or direct to be kept, and shall also keep an account of all moneys received or paid on account of the asylum, either to or by the treasurer of the asylum or otherwise, and shall in the month of March in every year send an abstract of such account for the year previous ending on the thirty-first day of December to one of her majesty's principal secretaries of state, and to the clerk or clerks of the peace of the county or borough, or of each county or borough, to which the asylum shall belong, and also to the commissioners in lunacy, such abstract to contain such particulars and be in such form as the commissioners in lunacy may direct; and such commissioners shall, within one month from the receipt of such abstract, cause a copy thereof to be laid before both houses of parliament.

226. The treasurer of every asylum shall keep accounts of all moneys received and paid by him.

§ 59.
Treasurer.

227. The committee of visitors of every asylum shall, previously to the month of March in every year, audit the accounts of the treasurer and clerk of such asylum, and shall report the same to the next general or quarter sessions of the county or each of the counties, and to the council of the borough or each of the boroughs, to which the asylum wholly or in part belongs.

§ 60.
Audit of accounts.

228. Not less than two members of every committee of visitors shall together, once at the least in every two months, inspect every part of the asylum of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors, and the general books kept in such asylum, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the condition and management of such asylum and the lunatics therein, and shall sign such book upon every such visit.

§ 61.
Inspection of
asylums by
visitors.

229. The committee of visitors of every asylum shall in every year lay before the justices of every county and borough to which such asylum wholly or in part belongs, at the court of general or quarter ses-

§ 62.
Annual reports of visitors.

sions to be holden next after the twentieth day of December in every year for such county, or at a special meeting of the justices of such borough to be holden within twenty days after the twentieth day of December in every year, a report in writing of the state and condition of such asylum, and as to its sufficiency for the proper accommodation of the number of lunatics for whom it may be requisite to provide accommodation, and as to the management of such asylum, and the conduct of the officers and servants thereof, and the care of the patients therein, and such committee may in such report make such remarks or observations in relation to any matters connected with such asylum as they may think fit; and the clerk to such committee shall transmit a copy of such report to the commissioners in lunacy, and if any such clerk neglect so to do for twenty-one days after the laying of such report before the justices of any county or borough, he shall for such offence forfeit any sum not exceeding ten pounds.

230. The clerk of every asylum shall, on the first day of January and the first day of July in every year, ^{§ 63.} prepare a list of all pauper lunatics then in such ^{Lists of pauper and private patients to be made.} asylum, according to the form in schedule (C), No.

1, to this Act annexed, and within fifteen days after such list shall have been prepared one copy thereof shall be laid by such clerk before the visitors of the asylum, and another shall be transmitted by him to the clerk of the peace of every or any county and to the clerk to the justices of every or any borough to which such asylum solely or jointly belongs, to be by him laid before the justices of such county or borough, and another copy of such list shall within the same time be transmitted by such clerk to the commissioners in lunacy; and the clerk of every asylum receiving private patients shall also on the first day of January and first day of July in every year prepare a list containing the christian names and surnames of all the private patients in such asylum in the form in schedule (C), No. 2, to this Act annexed, and shall within fifteen days after such list shall have been prepared transmit the same to the commissioners in lunacy; and shall within the same time transmit to such clerk of the peace and clerk to the justices as aforesaid, for the purposes aforesaid, a certificate under his hand of the number of such private patients of each sex.

231. The clerk of the board of guardians of every union, and of every parish under a board of guardians, and the overseers of every parish not in a union nor under a board of guardians, shall, on the first day of January in every year, or as soon after as may be, make out and sign a true and faithful list of all lunatics chargeable to the union or parish in the form of schedule (D) hereunto annexed, and shall, on or before the first day of February next succeeding, lay one copy of such list before the visitors of the asylum, or before the visitors of each asylum (if more than one) of the county or borough in which such union or parish is situate, and shall transmit one copy of such list to the clerk of the peace of the county, or the clerk to the justices of the borough within which the union or parish to which each such lunatic is chargeable is situate, to be by him laid before the justices acting for such county at their next general or quarter sessions, or before the justices of such borough, and another copy of such list to the commissioners in lunacy, and another copy thereof to the poor law board; and any such clerk or overseer neglecting to make out and sign such list, or to transmit copies thereof, as herein directed, shall for every such offence forfeit any sum not exceeding twenty pounds.

232. Any physician, surgeon, or apothecary to be appointed by the guardians of any union or parish or the overseers of any parish, and also the guardians of any union or parish, and the overseers of any parish, shall be permitted, whenever they see fit, between the hours of eight in the morning and six in the evening, to visit and examine any or every pauper lunatic chargeable to such union or parish confined in any asylum, registered hospital, or licensed house: Provided always, that if the medical officer of any asylum be of opinion that it will be injurious to any lunatic to permit such visit and examination, and such medical officer state in writing the reasons why such lunatic should not be visited and examined, and sign such statement, and deliver the same to the person or persons so requiring to visit and examine such lunatic, then and in such case it shall be lawful for such medical officer to refuse such visit and examination; and in every such case such medical officer shall forthwith enter in the medical journal the reasons set forth in such statement for such refusal, and shall sign such entry.

§ 64.
Annual re-
turns of pau-
per lunatics.

§ 65.
Visitation of
pauper pa-
tients by
overseers.

233. Every pauper lunatic not in an asylum, or a hospital registered or a house licensed for the reception of ^{§ 66.} pauper lunatics not in asylum; visitations and returns of lunatics, shall be visited once in every quarter of a year (reckoning the several quarters of the year as ending on the thirty-first day of March, thirtieth day of June, thirtieth day of September, and the thirty-first day of December,) by the medical officer of or for the parish or union or district of a parish or union in which such lunatic is resident; and such medical officer shall be paid the sum of two shillings and sixpence for each such quarterly visit to any pauper not being in a workhouse, which sum shall be paid by the same persons and be charged to the same account as the relief of such pauper; and within seven days after the end of every such quarter such medical officer shall prepare and sign a list according to the form in schedule (D) to this Act of all such lunatics, and shall state therein whether in the opinion of such medical officer all or any of such lunatics are or are not properly taken care of, and may or may not properly remain out of an asylum, and such medical officer shall within the time aforesaid deliver or send such list to the clerk to the guardians of such parish or union, or if such parish be not under a board of guardians, to one of the overseers thereof; and the forms of such list shall be from time to time furnished to the medical officer of every parish under a board of guardians, and to the medical officers of every union by the guardians of such parish or union; but nothing in this enactment shall be taken or construed to relieve any medical officer from any obligation by this Act imposed upon him to give notice to a relieving officer or overseer where it appears to such medical officer that any pauper lunatic ought to be sent to any asylum; and such clerk or overseer receiving any such list as aforesaid shall, within three days after the receipt thereof, transmit the same to the commissioners in lunacy, and a copy thereof to the clerk to the visitors of the asylum for the county or borough in which the parish or union for which he is clerk or overseer is situate; and every such medical officer, clerk, or overseer failing to comply with this enactment shall for every such offence forfeit any sum not exceeding twenty pounds nor under two pounds.

234. Every medical officer of a parish or union who shall

§ 67.
Provisions for
sending pau-
per lunatics
to asylums.

have knowledge that any pauper resident in such parish, or in any parish within the district of such medical officer, is, or is deemed to be, a lunatic, and a proper person to be sent to an asylum, shall within three days after obtaining such knowledge, give notice thereof in writing to a relieving officer of such parish, or if there is no relieving officer, then to one of the overseers of such parish, and every relieving officer of any parish within a union or under a board of guardians, and every overseer of a parish of which there is no relieving officer, who shall have knowledge, either by such notice or otherwise, that any pauper resident in such parish is or is deemed to be a lunatic, shall within three days after obtaining such knowledge give notice thereof to some justice of the county or borough within which such parish is situate; and thereupon the said justice shall, by an order under his hand and seal, require such relieving officer or overseer to bring such pauper before him or some other justice of the said county or borough, at such time and place within three days from the time of such notice being given to such justice as shall be appointed by the said order; and the said justice before whom such pauper shall be brought shall call to his assistance a physician, surgeon, or apothecary, and examine such person; and if such physician, surgeon, or apothecary, shall sign a certificate with respect to such pauper, according to the form in schedule (F), No. 3, to this Act annexed, and such justice be satisfied, upon view or personal examination of such pauper, or other proof, that such pauper is a lunatic, and a proper person to be taken charge of and detained under care and treatment, he shall, by an order under his hand according to the form in the said schedule (F), No. 1, to this Act annexed, direct such pauper to be received into such asylum as hereinafter mentioned, or, where hereinafter authorised in this behalf, into some hospital registered or some house duly licensed for the reception of lunatics; and such relieving officer or overseer shall immediately convey or cause the said lunatic to be conveyed to such asylum, hospital, or house, and such lunatic shall be received and detained therein: Provided always, that it shall be lawful for any justice, upon notice being given to him as aforesaid; or upon his own knowledge, without any such notice as

Amended by
26. & 26 Vict.,
ch. 111.
§ 19.

aforesaid, to examine any pauper deemed to be lunatic at his own abode or elsewhere, and to proceed in all respects as if such pauper were brought before him in pursuance of an order for that purpose; provided also, that in case any pauper deemed to be lunatic cannot, on account of his health or other cause, be conveniently taken before any justice, such pauper may be examined at his own abode or elsewhere by an officiating clergyman of the parish in which he is resident, together with a relieving officer, or if there be no relieving officer, an overseer of such parish, and such officiating clergyman, together with such relieving officer or overseer, shall call to their assistance a physician, surgeon, or apothecary; and if such physician, surgeon, or apothecary, shall sign a certificate with respect to such pauper according to the said form in the said schedule (F), No. 3, and if upon view or examination of such pauper such officiating clergyman and such relieving officer or overseer be satisfied that such pauper is a lunatic, and a proper person to be taken charge of and detained under care and treatment, such officiating clergyman, together with such overseer or relieving officer, shall, by an order under their hands according to the said form in the said schedule (F), No. 1, direct such pauper to be received into such asylum as hereinafter mentioned, or, where hereinafter authorised in this behalf, into some such registered hospital or licensed house as aforesaid, and such relieving officer or overseer shall immediately convey or cause such pauper to be conveyed to such asylum, hospital or house, and such pauper shall be received and detained there; provided also, that if the physician, surgeon or apothecary, by whom any such pauper shall be examined shall certify in writing that he is not in a fit state to be removed, his removal shall be suspended until the same or some other physician, surgeon, or apothecary, shall certify in writing that he is fit to be removed; and every such physician, surgeon, and apothecary, is required to give such last-mentioned certificate as soon as in his judgment it ought to be given; provided also, that where a certificate in the form in the said schedule (F), No. 3, is signed by the medical officer of the parish or union in which the pauper named therein is resident, as well as by some other person, being a physician, surgeon, or apothecary, called to the assistance of the justice

or clergyman and overseer or relieving officer, as hereinbefore mentioned, such joint certificate or such two certificates (as the case may be) shall be received by the justice or clergyman and overseer or relieving officer by whom such person is examined as hereinbefore mentioned as conclusive evidence that the person named therein is a lunatic, and a proper person to be taken charge of and detained under care and treatment, and he or they shall make an order in the form in the said schedule (F), No. 1, accordingly.

235. Every constable of any parish or place, and every relieving officer and overseer of any parish, who shall have knowledge that any person wandering at large within such parish or place (whether or not such person be a pauper) is deemed to be a lunatic, shall immediately apprehend and take or cause such person to be apprehended and taken before a justice; and it shall also be lawful for any justice, upon its being made to appear to him by the information upon oath of any person whomsoever that any person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, by an order under the hand and seal of such justice, to require any constable of the parish or place, or relieving officer or overseer of the parish where such person may be found, to apprehend him and bring him before such justice, or some other justice having jurisdiction where such person may be found; and every constable of any parish or place, and every relieving officer and overseer of any parish, who shall have knowledge that any person in such parish or place not a pauper and not wandering at large as aforesaid is deemed to be a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall, within three days after obtaining such knowledge, give information thereof upon oath to a justice, and in case it be made to appear to any justice, upon such information or upon the information upon oath of any person whomsoever, that any person within the limits of his jurisdiction not a pauper, and not wandering at large, is deemed to be a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, such justice shall either himself visit and ex-

§ 68.
Provision for
the care of
lunatics wan-
dering at
large; not
being properly
cared for or
cruelly
treated.

amine such person and make inquiry into the matters so appearing, upon such information or by an order under his hand and seal direct and authorise some physician, surgeon, or apothecary to visit and examine such person, and make such inquiry, and to report in writing to such justice his opinion thereupon; and in case upon such personal visit, examination, and inquiry by such justice, or upon the report of such physician, surgeon, or apothecary, it appear to such justice that such person is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, it shall be lawful for such justice, by an order under his hand and seal, to require any constable of the parish or place, or any relieving officer or overseer of the parish where such person is alleged to be, to bring him before any two justices of the same county or borough; and the justice or justices (as the case may be) before whom any such person as aforesaid in the respective cases aforesaid is brought, under this enactment, shall call to his or their assistance a physician, surgeon, or apothecary, and shall examine such person, and make such inquiry relative to such person as he or they shall deem necessary; and if upon examination of such person or other proof such justice be satisfied that such person so brought before him is a lunatic, and was wandering at large, and is a proper person to be taken charge of detained under care and treatment, or such two justices be satisfied that such person so brought before them is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, and if such physician, surgeon, or apothecary sign a certificate with respect to every such person so brought either before one justice or two justices according to the form in the schedule (F), No. 3, to this Act, it shall be lawful for the said justice or justices, by an order under his or their hand and seal or hands and seals, according to the form in the schedule (F), No. 1, to this Act, to direct such person to be received into such asylum as hereinafter mentioned, or, where hereinafter authorised in this behalf, into some hospital registered or house licensed for the reception of lunatics, and the said constable, relieving officer, or overseer, who may have brought

such person before the said justice or justices, or any constable whom such justice or justices may require so to do, shall forthwith convey such person to such asylum, hospital, or house accordingly: Provided always, that it shall be lawful for any justice, upon such information on oath as aforesaid, or upon his own knowledge, and alone, in the case of any such person as aforesaid wandering at large and deemed to be a lunatic, or with some other justice, in any other of the cases aforesaid, to examine the person deemed to a lunatic, at his own abode or elsewhere, and to proceed in all respects as if such person were brought before him or them as hereinbefore mentioned; provided also, that it shall be lawful for said justice or justices to suspend the execution of any such order for removing any such person as aforesaid to any asylum, hospital, or house for such period not exceeding fourteen days as he or they may deem meet, and in the meantime to give such directions or make such arrangements for the proper care and control of such person as he or they shall consider necessary; provided also, that if the physician, surgeon, or apothecary by whom such person is examined certify in writing that he is not in a fit state to be removed, the removal of person shall be suspended until the same or some other physician, surgeon, or apothecary certify in writing that such person is fit to be removed; and every such physician, surgeon and apothecary is hereby required to give such last-mentioned certificate as soon as in his judgment it ought to be given; provided also, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from retaining or taking such lunatic under his own care, if such relation or friend shall satisfy the justice or justices before whom such lunatic shall be brought, or the visitors of the asylum in which such lunatic is or is intended to be placed, that such lunatic will be properly taken care of.

236. [§ 69. Power to justices to order payment of a fee to any physician, etc., called in to examine any person.]

237. If any medical officer of any parish or union omit for more than three days after obtaining knowledge of any pauper resident in such parish, or in any parish within his district, being or being deemed to be a lunatic, and a proper person to be sent to an asylum, to give

§ 70.
Penalties for
omitting to
give notice.

such notice thereof as is hereinbefore required, or if any relieving officer of any parish, or any overseer of any parish of which there is no relieving officer, omit for more than three days after obtaining knowledge of any pauper resident in such parish, being deemed to be a lunatic, and a proper person to be sent to an asylum, to give notice thereof to a justice as hereinbefore required, or if any constable, relieving officer, or overseer omit, to apprehend and take before a justice, as hereinbefore required, any person wandering at large and deemed to be a lunatic, or omit for three days after obtaining knowledge that any person deemed to be a lunatic (not a pauper and not wandering at large) is not under proper care and control, or is cruelly treated or neglected by any person having the care or charge of him, to give information thereof to a justice as hereinbefore required, such medical officer, relieving officer, overseer, or constable, as the case may be, shall for every such offence forfeit any sum not exceeding ten pounds.

238. If any relieving officer, overseer, or constable by this Act required to convey any person to any asylum, registered hospital, or licensed house, in pursuance of any order under this Act, refuse or wilfully neglect to execute such order with all reasonable expedition, he shall for every such offence forfeit any sum not exceeding ten pounds.

§ 71.
Penalties for
omitting to ex-
ecute orders.

239. Every such order by a justice or justices, or by a clergyman and overseer or relieving officer as aforesaid, for the reception of a lunatic into an asylum, may authorise his admission, not only into any lunatic asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, but also into any other asylum for the reception of pauper lunatics of such county or borough, and also into any asylum for any other county or borough, or any hospital registered or house licensed for the reception of lunatics; but every lunatic shall under every such order be sent to an asylum of the county or borough in which the parish or place from which he is sent is situate, unless there be no such asylum, or there be a deficiency of room, or unless there be some special circumstances by reason whereof such lunatic cannot conveniently be taken to such asylum, which deficiency

§ 72.
Justices may
confine in li-
censed
houses.

Lunatics to be
sent to asy-
lum if cir-
cumstances
permit.

of room or special circumstances shall be stated in the order for the reception of such lunatic into any asylum other than such asylum as aforesaid, or into any registered hospital or licensed house; and no lunatic shall be sent to any registered hospital or house licensed for the reception of lunatics, by virtue of such order, except there be no such asylum, or no such asylum in which he can be received, or there be some special circumstances by reason whereof he cannot be taken thereto, which shall be stated in like manner as aforesaid.

240. No pauper shall be received into any asylum, registered hospital, or licensed house (save under the provisions herein contained with respect to removal of lunatics) without an order according to the form required in the said schedule (F), No. 1, under the hands of one justice, or under the hands of an officiating clergyman, and of one of the overseers or the relieving officer of the parish or union from which such pauper is sent as aforesaid, together with such statement of particulars as is contained in the same schedule, nor without a medical certificate according to the form in the said schedule (F.), No. 3, signed by one physician, surgeon, or apothecary, who shall have personally examined him not more than seven clear days previously to his reception; and every person who receives any pauper into any asylum without such order and medical certificate (save under any of the said provisions) shall be guilty of a misdemeanor.

241. No person, not a pauper, shall be received into any asylum (save under the provisions herein contained) without an order under the hand of some person according to the form in schedule (F), No. 2, to this Act annexed, together with such statement of particulars as is contained in the same schedule, nor without the medical certificate, according to the form and containing the particulars required in schedule (F), No. 3, annexed to this Act, of two persons, each of whom shall be a physician, surgeon, or apothecary, and shall not be in partnership with or an assistant to the other, and each of whom shall separately from the other have personally examined the person to whom it relates, not more than seven clear days previously to the reception of such person into such asylum, and such order

§ 73.
Paupers not
received into
asylum with-
out certain
order and
certificate.

§ 74.
No person
received into
an asylum
without an or-
der and two
medical cer-
tificates, ex-
cept under the
provisions of
this Act.

as aforesaid may be signed before or after the medical certificates or either of them ; and every person who receives any person, not a pauper, into any asylum, save under the provisions herein contained, without such order and medical certificates as aforesaid, shall be guilty of a misdemeanor; provided always, nevertheless, that any person may, under special circumstances preventing the examination of such person by two medical practitioners as aforesaid, be received into any asylum upon the certificate of one physician, surgeon, or apothecary alone, provided that the statement accompanying such order set forth the special circumstances which prevent the examination of such person by two medical practitioners; but in every such case two other such certificates shall, within three clear days after the reception of such patient into such asylum, be signed by two other persons, each of whom shall be a physician, surgeon, or apothecary, not in partnership with or an assistant to the other, or the physician, surgeon, or apothecary who signed the certificate on which the patient was received, and shall within such time, and separately from the other of them, have personally examined the person so received as a lunatic; and any person who, having received any person into any asylum as aforesaid upon the certificate of one medical practitioner alone as aforesaid, shall keep or permit such person to remain in such asylum beyond the said period of three clear days, without such further certificates as aforesaid, shall be guilty of a misdemeanor.

242. Every physician, surgeon, and apothecary signing any certificate under or for the purposes of this Act, shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is a lunatic, an idiot, or a person of unsound mind, distinguishing in such certificate facts observed by himself from facts communicated to him by others; and no person shall be received into any asylum under any certificate which purports to be founded only upon facts communicated by others.

§ 75.
Medical certificate, contents.

243. No physician, surgeon, or apothecary who, or whose father, brother, son, partner, or assistant, shall sign the order for the reception of a patient, shall sign any certificate for the reception of the same patient, and no patient shall be received into any asylum upon or

§ 76.
Who not to sign certificate.

under any certificate signed by any medical officer of such asylum.

244. It shall be lawful for any two of the visitors of any asylum, being justices, by an order in writing under their hands and seals, to order any pauper lunatic chargeable to any parish or union within the county or borough, or any county or borough to which such asylum wholly or in part belongs, or to such county, and who may be confined in any other asylum, or in any registered hospital or licensed house, to be removed to such first-mentioned asylum; and it shall be lawful for any two of the visitors of any asylum, being justices, in manner aforesaid to order any pauper lunatic to be removed from such asylum to some other asylum, or to some registered hospital or licensed house; but no such lunatic shall be removed as last aforesaid without the consent in writing of two of the commissioners in lunacy, except to an asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or the county in some parish of which the lunatic may have been adjudged to be settled, or a registered hospital or licensed house within any such county as aforesaid, or an asylum, registered hospital, or licensed house into which the lunatic can be received under a subsisting contract for the reception of lunatics therein; and it shall be lawful for the justices making any such order in and by the same to direct or require any overseer or relieving or other officer of the parish, union, or county to which such lunatic is chargeable, or to authorise any other person to execute the same; and every such order and consent shall be made and given respectively in duplicate, and one duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house from which the patient is removed, and the other shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house to which the patient is removed, and such order, with such consent in writing (where such consent is required), shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, hospital, or licensed house to which he is ordered to be removed: Provided always, that no person shall be removed under any such order with-

§ 77.
Transfer of
pauper lunatics to or from
asylum.

Medical certificate of fit

out a medical certificate, signed by the medical officer of the asylum, or the medical practitioner, condition of bodily health. or one of the medical practitioners, keeping, residing in, or visiting the hospital or licensed house from which such person is ordered to be removed, certifying that he is in a fit condition of bodily health to be removed in pursuance of such order; and the superintendent or proprietor of such asylum, hospital, or licensed house shall, at the time of delivering the person ordered to be removed to the overseer, officer, or person having the execution of the order for removal, deliver to such overseer or officer, free of any charge for the same, the certificate of such medical officer, and also a copy (certified under the hand of such superintendent or proprietor to be a true copy) of the order and certificate under which such person was received into and detained in such asylum, hospital, or licensed house, and the said certificate and certified copies, with one duplicate of the order for removal, shall be delivered by such overseer, officer, or person to the superintendent or proprietor of the asylum, hospital, or licensed house to which such person is ordered to be removed, or any other officer of such asylum, hospital, or licensed house into whose care such person is delivered.

245. Provided always, That no lunatic being a pauper shall be received under any order made by virtue of this Act into any asylum, other than an asylum belonging wholly or in part to the county or borough in which the parish or place from which such lunatic is sent, or the parish in which he is adjudged to be settled, is situate, except there be a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to such asylum, unless such order be indorsed by a visitor of such asylum; and it shall not be compulsory on the superintendent of any registered hospital or the proprietor of any licensed house to receive any lunatic under any such order, except in pursuance of any subsisting contract.

§ 78.
Pauper lunatics not received into other than county asylums without endorsement of order by visitors.

246. It shall be lawful for any three of the visitors of any asylum, by writing under their hands and seals, to order the discharge of any patient detained in such asylum, whether such person be recovered or not,

§ 79.
Discharge of lunatics from asylums.

and also for any two of such visitors, with the advice in writing of the medical officer of such asylum, to discharge any person detained therein, or to permit any such person to be absent from the asylum upon trial for such period as such visitors think fit; and it shall be lawful for such visitors to make such allowance to such last-mentioned person, not exceeding what would be the charge for such person if in the asylum, which allowance, and no greater sum, shall be charged for him and be payable as if he were actually in the asylum; and in case any person so allowed to be absent on trial for any period do not return at the expiration of such period, and a medical certificate as to his state of mind, certifying that his detention in an asylum is no longer necessary, be not sent to the visitors, he may, at any time within fourteen days after the expiration of such period, be retaken, as herein provided in the case of an escape.

247. When the visitors of any asylum shall order a pauper lunatic confined therein to be discharged therefrom, it shall be lawful for them, when they shall see occasion, to send notice in writing, signed by their clerk, through the post or otherwise, of their intention to discharge such lunatic, to the overseers of the parish wherein it shall have been adjudged that such lunatic is settled, or, if no such adjudication shall have been made, to the overseers of the parish from which such lunatic shall have been sent to such asylum, unless such lunatic shall be chargeable to the common fund of any union, and in any such last-mentioned case to some one relieving officer of such union; and upon receipt of such notice the overseers or relieving officers respectively shall cause such lunatic, upon his discharge, to be forthwith removed to their parish, or to the workhouse of the union, at the cost and charge of their parish or of the common fund of the union, as the case shall require; and any overseer or relieving officer who shall refuse or wilfully neglect to remove such lunatic from the said asylum within the space of seven days after such notice shall have been sent to him shall be guilty of an offence against this Act, and shall forfeit for such offence any sum not exceeding ten pounds, to be recovered as other penalties imposed by this Act are recoverable.

248. Where application is made to the committee of visitors

§ 80.
Overseers to
remove lunatics upon
notice.

of any asylum by any relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, it shall be lawful for any two of the visitors aforesaid, if they think fit, and upon the undertaking in writing of such relative or friend to the satisfaction of such visitors that such lunatic shall be no longer chargeable to any union, parish, or county, and shall be properly taken care of, and shall be prevented from doing injury to himself or others, to discharge such lunatic.

§ 81.
Discharge to
custody of
friends.

249. It shall be lawful for the commissioners in lunacy, or any two of them, by writing under their hands and seals, to order and direct the removal of any lunatic from any asylum, registered hospital, or licensed house to any other asylum, registered hospital, or licensed house; and every such order shall be made in duplicate, and one duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house from which the patient is removed, and the other shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house to which the patient is removed, and such order shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, hospital, or licensed house to which he is ordered to be removed.

§ 82.
Removal by
commis-
sioners in
lunacy.

250. If and when any person who signed the order on which any patient (not being a pauper) was received into any asylum (whether or not such patient have since been removed under any order made under this Act or otherwise to any other asylum) shall by writing under his hand direct that such patient be discharged or removed, then and in such case such patient shall forthwith be discharged or removed as the person who signed the order for his reception may direct.

§ 83.
Removal of
private
patients.

251. If the person who signed the order on which any patient (not being a pauper) was received into any asylum be dead, or be incapable, by reason of insanity, absence from England or otherwise, of giving an order for the discharge or removal of such patient, then the person who made the last payment on ac-

§ 84.
Removal
when person
who signed
order is dead
or incapable.

count of such patient, or the husband or wife, or (if there be no husband, or the husband or wife be incapable as aforesaid) the father, or (if there be no father, or he be incapable as aforesaid,) the mother of such patient, or if there be no mother, or she be incapable as aforesaid then any one of the nearest of kin for the time being of such patient may, by writing under his or her hand, give such direction as aforesaid for the discharge or removal of such patient, and thereupon such patient shall be forthwith discharged or removed accordingly.

252. Provided always, That no patient shall be discharged under either of the two last foregoing provisions if the medical officer of the asylum in which such patient is certify in writing under his hand that in the opinion of such medical officer such patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless two of the visitors of such asylum, being justices, shall, after such certificates shall have been produced to them, give their consent in writing to such patients being so discharged; provided that nothing in this enactment shall prevent the transfer of any patient so certified to be dangerous and unfit to be at large from any asylum to any other asylum, or to any registered hospital or licensed house, but in such case the patient shall be placed under the control of an attendant belonging to the asylum, hospital, or house from or to which he is about to be removed for the purpose of such removal, and shall remain under such control until such time as the removal has been duly effected.

253. Any person, having authority to order the discharge of any patient (not being a pauper) from any asylum, registered hospital, or licensed house, or of any single patient, may, with the previous consent in writing of two of the commissioners, direct, by an order in writing under his hand, the removal of such patient to any asylum, registered hospital, or licensed house, or to the care or charge of any person mentioned or named in such order; and every such order and consent shall be made and given respectively in duplicate, and one of the duplicates shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house from which or the person from whose care or charge the patient is ordered to be removed, and the other

§ 85.
Visitors' consent necessary for discharge of dangerous lunatics.

§ 86.
Transfer of private and single patients.

duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house into which or the person into whose care or charge the patient is ordered to be removed; and such order for removal, together with such consent in writing, shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, registered hospital, or licensed house into which or by the person into whose care or charge he is ordered to be removed; Provided always that a copy of the order and certificates upon which such patient was received in the asylum, hospital, or house from which he is removed, or as a single patient, by the person from whose care he is removed, certified under the hand of the superintendent or proprietor of such asylum, hospital, or house, or of such person as last aforesaid, to be a true copy, shall be furnished by him free of expense, and shall be delivered, with one duplicate of the said order of removal and consent, to the superintendent or proprietor of the asylum, hospital, or house to which, or to the person to whose care or charge, such patient is removed.

254. If after the reception of any lunatic into any asylum it appear that the order or medical certificate, or (if more than one) both or either of the medical certificates, upon which he was received, is or are in any respect incorrect or defective, such order and medical certificate or certificates may be amended by the person or persons signing the same at any time within fourteen days next after the reception of such lunatic; provided nevertheless, that no such amendment shall have any force or effect unless the same shall receive the sanction of one or more of the commissioners in lunacy.

§ 87.
Amendment
of orders and
certificates.

255. Every person received into any asylum, registered hospital, or licensed house under such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorised by this Act, and in case of escape may, by virtue of such order and certificate, be retaken at any time within fourteen days after his escape by the superintendent or proprietor of such asylum, hospital, or house, or any officer or servant belonging thereto, or any other person authorised in writing in this behalf by

§ 88.
Person re-
ceived into
asylum must
be retained
until dis-
charged.

such superintendent or proprietor, and conveyed to and received and detained in such asylum, hospital, or house.

256. The clerk of every asylum shall, immediately on the admission of any person as a lunatic into such asylum, make an entry with respect to such lunatic in a book to be kept for that purpose, to be called "The Register of Patients," according to the form and containing the particulars specified in the schedule (G), No. 1, to this Act, except as to the form of disorders, the entry as to which is to be supplied by the medical officer of the asylum within one month after the admission of the patient, and after the second and before the end of the seventh clear day from the day of the admission of any person as a lunatic into any asylum shall transmit to the commissioners in lunacy a copy of the order and statement and certificate or certificates on which such lunatic has been so received, together with a statement, to be made and signed by the medical officer of the asylum, not sooner than two clear days after such admission, according to the form in the said schedule (F), No. 4, to this Act annexed; and any clerk omitting so to make such entry, or to transmit such copy and statement within the time aforesaid, and every medical officer omitting to make or sign such statement, shall for every such offence forfeit any sum not exceeding twenty pounds.

257. In every asylum the medical officer thereof shall once in every week enter in a book to be kept for that purpose, to be called "The Medical Journal," a statement according to the form in the schedule (G), No. 3, showing the number of patients of each sex then in such asylums, the christian name and surname of every patient who is or has been under restraint or in seclusion since the last entry, and when and for what period and reasons, and in case of restraint by what means, and the christian name and surname of every patient under medical treatment, and for what, if any, bodily disorder, and every death, injury, and violence which shall have happened to or affected any patient since the then last preceding entry, and shall also enter into a book to be called "The Case Book," as soon as may be after the admission of any patient, the mental state and bodily condition of every patient at the time of his admission, and also

§ 89.
Entries of
admission.

Copies trans-
mitted to com-
missioners in
lunacy.

§ 90.
Weekly jour-
nal and case
book to be
kept.

the history from time to time of his case whilst he shall continue in the asylum; and such books shall from time to time be regularly laid before the visitors for their inspection and signature, and every medical officer omitting to make such entries or any of them, shall for every such offence forfeit any sum not exceeding twenty pounds.

258. The clerk of every asylum shall, within three days after every visit to such asylum of two or more of the commissioners in lunacy, transmit to the office of such commissioners a true and perfect copy of any entries of any remarks or observations made by such visiting commissioners in any of the books of such asylum, and every such clerk omitting to transmit as aforesaid any such copy shall for every such offence forfeit any sum not exceeding ten pounds.

259. In case of the death of any patient in any asylum a notice and statement according to the form in schedule (F), No. 5, of the death and cause of the death of such patient, and the name of any person or persons who was or were present at the death, shall be drawn up and signed by the clerk a medical officer of such asylum, and a copy thereof shall be by the clerk transmitted to the registrar of deaths for the district and to the commissioners in lunacy within forty-eight hours of the death of such patient, and also to the relieving officer or the overseers of the union or parish to which such lunatic (if a pauper) was chargeable, and if not a pauper to the person who shall have signed the order for the admission of the lunatic, or who made the last payment on account of such lunatic; and every clerk or medical officer who neglects or omits to draw up, sign, or transmit such notice or statement as aforesaid, within the time aforesaid, shall respectively forfeit and pay any sum not exceeding twenty pounds.

260. The clerk of every asylum shall, within three clear days after the death, discharge, or removal of any patient, make an entry thereof in the said register of patients, and also in a book to be kept for that purpose according to the form and containing the particulars in the schedule (G), No. 2, to this Act, and shall also, within three clear days after the discharge, removal, escape, or recap-

§ 91.

Copies of entries of visitors sent to commissioners.

§ 92.

Death of lunatic, statement of cause.

§ 93.

Entries of deaths, discharges and removals.

ture of any patient, transmit a written notice of such discharge or removal, according to the form in the said schedule (F), No. 5, or of such escape or recapture, to the commissioners in lunacy; and every such clerk who neglects or omits to make such entry as aforesaid or transmit such notice as aforesaid within the time aforesaid, shall forfeit and pay any sum not exceeding ten pounds; and every such clerk who shall knowingly and wilfully in such entry untruly set forth any of the particulars required shall be guilty of a misdemeanor.

261. [§§ 94–121. Provisions for expenses of support, and justice's orders in reference to settlement and appeals.]

262. Any physician, surgeon, or apothecary who shall sign any certificate contrary to any of the provisions herein contained shall for every such offence forfeit any sum not exceeding twenty pounds; and any physician, surgeon, or apothecary who shall falsely state or certify anything in any certificate under this Act, and any person who shall sign any certificate under this Act, in which he shall be described as a physician, surgeon, or apothecary, not being a physician, surgeon, or apothecary respectively within the meaning of this Act shall be guilty of a misdemeanor.

263. If any superintendent, officer, nurse, attendant, servant, or other person employed in any asylum strike, wound, ill treat, or wilfully neglect any lunatic confined therein, he shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence, or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds nor less than two pounds.

264. If any superintendent, officer, or servant in any asylum shall, through wilful neglect or connivance, permit any patient in any case to quit or escape from such asylum, or be at large without such order as in this Act mentioned (save in the case of temporary absence authorised under the regulations of the committee of visitors), or shall secrete, or abet or connive at the escape of any such person, he shall for every such offence forfeit and pay any sum not more than twenty pounds nor less than two pounds.

265. [§ 125. Visitors may sue and be sued in the name of their clerk, whose removal shall not abate action.]

§ 122.
Penalties for
signing false
certificates.

§ 123.
Penalty for
cruelty to
lunatics

§ 124.
Penalty for
permitting
escape.

266. [§ 126. Secretary of commissioners in lunacy and clerks to visitors may prosecute for offences.]

267. [§ 127. Penalties to be recovered in manner provided by 11 & 12 Vict., ch. 43. Application of penalties.]

268. [§ 128. Power of appeal to the quarter sessions.]

269. [§ 129. Council of every borough to exercise the same duties, etc., of erecting asylums as are conferred upon justices, etc.]

270. [§ 130. Committee appointed by council to have same powers as committee of visitors.]

271. [§ 131. Every city, town, liberty, etc., not being a borough within the meaning of this Act, to be annexed to and rated as part of the county within which the same is situate.]

272. In this Act the words and expressions following shall have the several meanings hereby assigned to them, ^{§ 132.} unless there be something in the subject or context ^{interpretation of terms.} repugnant to such construction; (that is to say,) * * * * *
 "Lunatic" shall mean and include every person of unsound mind, and every person being an idiot: "Pauper" shall mean every person maintained wholly or in part by or chargeable to any parish, union, or county: * * * * * "Asylum" shall mean any asylum, house, building, or place already erected or provided under the provisions of an Act passed in the forty-eighth year of king George the third, chapter 96, or an Act of the ninth year of king George the fourth, chapter 40, or the said Acts hereby repealed, or any of them, or subject to the provisions of the said Acts or any of them, or to be erected or provided under the provisions of this Act.

273. [§ 133. Nothing to affect provisions of 39 & 40 Geo. 3, ch. 94; 1 & 2 Vict., ch. 14, or 3 & 4 Vict., ch. 54, as to criminal lunatics.]

SCHEDULE (A).

Form of agreement for uniting under the foregoing Act for the Purpose of erecting or providing an Asylum for the Reception of Lunatics.

It is agreed this day of by and between the
 committees of justices of the peace for the county [or counties]
 and the borough [or boroughs] of and the committee

under any certificate signed by any medical officer of such asylum.

244. It shall be lawful for any two of the visitors of any asylum, being justices, by an order in writing under their hands and seals, to order any pauper lunatic chargeable to any parish or union within the county or borough, or any county or borough to which such asylum wholly or in part belongs, or to such county, and who may be confined in any other asylum, or in any registered hospital or licensed house, to be removed to such first-mentioned asylum; and it shall be lawful for any two of the visitors of any asylum, being justices, in manner aforesaid to order any pauper lunatic to be removed from such asylum to some other asylum, or to some registered hospital or licensed house; but no such lunatic shall be removed as last aforesaid without the consent in writing of two of the commissioners in lunacy, except to an asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or the county in some parish of which the lunatic may have been adjudged to be settled, or a registered hospital or licensed house within any such county as aforesaid, or an asylum, registered hospital, or licensed house into which the lunatic can be received under a subsisting contract for the reception of lunatics therein; and it shall be lawful for the justices making any such order in and by the same to direct or require any overseer or relieving or other officer of the parish, union, or county to which such lunatic is chargeable, or to authorise any other person to execute the same; and every such order and consent shall be made and given respectively in duplicate, and one duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house from which the patient is removed, and the other shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house to which the patient is removed, and such order, with such consent in writing (where such consent is required), shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, hospital, or licensed house to which he is ordered to be removed: Provided always, that no person shall be removed under any such order with-

§ 77.
Transfer of
pauper lunatics to or from
asylum.

Medical certificate of fit

out a medical certificate, signed by the medical officer of the asylum, or the medical practitioner, ^{condition of} or one of the medical practitioners, keeping, residing in, or visiting the hospital or licensed house from which such person is ordered to be removed, certifying that he is in a fit condition of bodily health to be removed in pursuance of such order; and the superintendent or proprietor of such asylum, hospital, or licensed house shall, at the time of delivering the person ordered to be removed to the overseer, officer, or person having the execution of the order for removal, deliver to such overseer or officer, free of any charge for the same, the certificate of such medical officer, and also a copy (certified under the hand of such superintendent or proprietor to be a true copy) of the order and certificate under which such person was received into and detained in such asylum, hospital, or licensed house, and the said certificate and certified copies, with one duplicate of the order for removal, shall be delivered by such overseer, officer, or person to the superintendent or proprietor of the asylum, hospital, or licensed house to which such person is ordered to be removed, or any other officer of such asylum, hospital, or licensed house into whose care such person is delivered.

245. Provided always, That no lunatic being a pauper shall be received under any order made by virtue of this Act into any asylum, other than an asylum belonging wholly or in part to the county or borough in which the parish or place from which such lunatic is sent, or the parish in which he is adjudged to be settled, is situate, except there be a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to such asylum, unless such order be indorsed by a visitor of such asylum; and it shall not be compulsory on the superintendent of any registered hospital or the proprietor of any licensed house to receive any lunatic under any such order, except in pursuance of any subsisting contract.

§ 78.
Pauper lunatics not received into other than county asylums without endorsement of order by visitors.

246. It shall be lawful for any three of the visitors of any asylum, by writing under their hands and seals, to order the discharge of any patient detained in such asylum, whether such person be recovered or not,

§ 79.
Discharge of lunatics from asylums.

and also for any two of such visitors, with the advice in writing of the medical officer of such asylum, to discharge any person detained therein, or to permit any such person to be absent from the asylum upon trial for such period as such visitors think fit; and it shall be lawful for such visitors to make such allowance to such last-mentioned person, not exceeding what would be the charge for such person if in the asylum, which allowance, and no greater sum, shall be charged for him and be payable as if he were actually in the asylum; and in case any person so allowed to be absent on trial for any period do not return at the expiration of such period, and a medical certificate as to his state of mind, certifying that his detention in an asylum is no longer necessary, be not sent to the visitors, he may, at any time within fourteen days after the expiration of such period, be retaken, as herein provided in the case of an escape.

247. When the visitors of any asylum shall order a pauper lunatic confined therein to be discharged therefrom, it shall be lawful for them, when they shall see occasion, to send notice in writing, signed by their clerk, through the post or otherwise, of their intention to discharge such lunatic, to the overseers of the parish wherein it shall have been adjudged that such lunatic is settled, or, if no such adjudication shall have been made, to the overseers of the parish from which such lunatic shall have been sent to such asylum, unless such lunatic shall be chargeable to the common fund of any union, and in any such last-mentioned case to some one relieving officer of such union; and upon receipt of such notice the overseers or relieving officers respectively shall cause such lunatic, upon his discharge, to be forthwith removed to their parish, or to the workhouse of the union, at the cost and charge of their parish or of the common fund of the union, as the case shall require; and any overseer or relieving officer who shall refuse or wilfully neglect to remove such lunatic from the said asylum within the space of seven days after such notice shall have been sent to him shall be guilty of an offence against this Act, and shall forfeit for such offence any sum not exceeding ten pounds, to be recovered as other penalties imposed by this Act are recoverable.

§ 80.
Overseers to
remove lunatics upon
notice.

248. Where application is made to the committee of visitors

of any asylum by any relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, it shall be lawful for any two of the visitors aforesaid, if they think fit, and upon the undertaking in writing of such relative or friend to the satisfaction of such visitors that such lunatic shall be no longer chargeable to any union, parish, or county, and shall be properly taken care of, and shall be prevented from doing injury to himself or others, to discharge such lunatic.

§ 81.
Discharge to
custody of
friends.

249. It shall be lawful for the commissioners in lunacy, or any two of them, by writing under their hands and seals, to order and direct the removal of any lunatic from any asylum, registered hospital, or licensed house to any other asylum, registered hospital, or licensed house; and every such order shall be made in duplicate, and one duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house from which the patient is removed, and the other shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licensed house to which the patient is removed, and such order shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, hospital, or licensed house to which he is ordered to be removed.

§ 82.
Removal by
commis-
sioners in
lunacy.

250. If and when any person who signed the order on which any patient (not being a pauper) was received into any asylum (whether or not such patient have since been removed under any order made under this Act or otherwise to any other asylum) shall by writing under his hand direct that such patient be discharged or removed, then and in such case such patient shall forthwith be discharged or removed as the person who signed the order for his reception may direct.

§ 83.
Removal of
private
patients.

251. If the person who signed the order on which any patient (not being a pauper) was received into any asylum be dead, or be incapable, by reason of insanity, absence from England or otherwise, of giving an order for the discharge or removal of such patient, then the person who made the last payment on ac-

§ 84.
Removal
when person
who signed
order is dead
or incapable.

count of such patient, or the husband or wife, or (if there be no husband, or the husband or wife be incapable as aforesaid) the father, or (if there be no father, or he be incapable as aforesaid,) the mother of such patient, or if there be no mother, or she be incapable as aforesaid then any one of the nearest of kin for the time being of such patient may, by writing under his or her hand, give such direction as aforesaid for the discharge or removal of such patient, and thereupon such patient shall be forthwith discharged or removed accordingly.

252. Provided always, That no patient shall be discharged under either of the two last foregoing provisions if the medical officer of the asylum in which such patient is certify in writing under his hand that in the opinion of such medical officer such patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless two of the visitors of such asylum, being justices, shall, after such certificates shall have been produced to them, give their consent in writing to such patients being so discharged; provided that nothing in this enactment shall prevent the transfer of any patient so certified to be dangerous and unfit to be at large from any asylum to any other asylum, or to any registered hospital or licensed house, but in such case the patient shall be placed under the control of an attendant belonging to the asylum, hospital, or house from or to which he is about to be removed for the purpose of such removal, and shall remain under such control until such time as the removal has been duly effected.

253. Any person, having authority to order the discharge of any patient (not being a pauper) from any asylum, registered hospital, or licensed house, or of any single patient, may, with the previous consent in writing of two of the commissioners, direct, by an order in writing under his hand, the removal of such patient to any asylum, registered hospital, or licensed house, or to the care or charge of any person mentioned or named in such order; and every such order and consent shall be made and given respectively in duplicate, and one of the duplicates shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house from which or the person from whose care or charge the patient is ordered to be removed, and the other

§ 85.
Visitors' consent necessary for discharge of dangerous lunatics.

§ 86.
Transfer of private and single patients.

duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house into which or the person into whose care or charge the patient is ordered to be removed; and such order for removal, together with such consent in writing, shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, registered hospital, or licensed house into which or by the person into whose care or charge he is ordered to be removed; Provided always that a copy of the order and certificates upon which such patient was received in the asylum, hospital, or house from which he is removed, or as a single patient, by the person from whose care he is removed, certified under the hand of the superintendent or proprietor of such asylum, hospital, or house, or of such person as last aforesaid, to be a true copy, shall be furnished by him free of expense, and shall be delivered, with one duplicate of the said order of removal and consent, to the superintendent or proprietor of the asylum, hospital, or house to which, or to the person to whose care or charge, such patient is removed.

254. If after the reception of any lunatic into any asylum it appear that the order or medical certificate, or (if more than one) both or either of the medical certificates, upon which he was received, is or are in any respect incorrect or defective, such order and medical certificate or certificates may be amended by the person or persons signing the same at any time within fourteen days next after the reception of such lunatic; provided nevertheless, that no such amendment shall have any force or effect unless the same shall receive the sanction of one or more of the commissioners in lunacy.

§ 87.
Amendment
of orders and
certificates.

255. Every person received into any asylum, registered hospital, or licensed house under such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorised by this Act, and in case of escape may, by virtue of such order and certificate, be retaken at any time within fourteen days after his escape by the superintendent or proprietor of such asylum, hospital, or house, or any officer or servant belonging thereto, or any other person authorised in writing in this behalf by

§ 88.
Person re-
ceived into
asylum must
be retained
until dis-
charged.

licensed house, it should state that the justice or justices or other persons making the order is or are satisfied that there is no asylum of such county or borough, or that the asylum or asylums thereof is or are full ; or (as the case may require) the special circumstances by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

STATEMENT.

[If any Particulars in this Statement be not known, the Fact to be so stated].

Name of patient, and christian name, at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Parish or union to which the lunatic is chargeable (if a pauper or destitute lunatic).

Name and christian name and place of abode of the nearest known relative of the patient, and degree of relationship (if known).

I certify that, to the best of my knowledge, the above particulars are correctly stated.

(Signed)

[In the case of a pauper to be signed by the relieving officer or overseer.]

SCHEDULE (F), No. 2.

Order for the Reception of a Private Patient.

I, the undersigned, hereby request you to receive A.B., a lunatic [or an idiot, or a person of unsound mind], as a patient into your asylum. Subjoined is a statement respecting the said A.B.

(Signed) Name.
 Occupation (if any).
 Place of abode.
 Degree of relationship (if any),
 or other circumstances of connection with the patient.

Dated this day of 18 .
 To superintendent of the asylum for the county [or
 borough] of [describing the asylum].

. STATEMENT.

[If any of the Particulars in this Statement be not known, the Fact to be so stated.]

Name of patient, with christian name, at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found lunatic by inquisition, and date of commission or order for inquisition.

Special circumstances (if any) preventing the patient being examined, before admission, separately by two medical practitioners.

(Signed) Name.

Where the person signing the statement is not the person who signs the order, the following particulars concerning the person signing the statement are to be added, viz.:

Occupation (if any).

Place of abode.

Degree of relationship (if any),
or other circumstances of connection with the patient.

SCHEDULE (F), No. 3.

Form of Medical Certificate.

I, the undersigned [here set forth the qualification entitling the person certifying to practise as a physician, surgeon, or apothecary, ex. gra., being a fellow of the royal college of physicians in London], and being in actual practice as a [physician, surgeon, or apothecary, as the case may be], hereby certify, That I, on the day of at [here insert the street and number of the house (if any) or other like particulars], in the county of [in any case where more than one medical certificate is required by this Act, here insert separately from any other medical practitioner] personally examined A.B. of [insert residence and profession or occupation, if any], and that the said A.B. is a lunatic [or an idiot, or a person of unsound mind], and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds, viz.:—

1. Facts indicating insanity observed by myself [here state the facts].

2. Other facts (if any) indicating insanity communicated to me by others [here state the information, and from whom].

(Signed)

Place of abode.

Dated this

day of

18 .

SCHEDULE (F), No. 4.

Notice of Admission.

I hereby give you notice, that A.B. was admitted into this asylum as a private [or pauper] patient on the day of , and I hereby transmit a copy of the order and statement and medical certificates [or certificate] on which he was received.

[If a private patient be received upon one certificate only, the special circumstances which have prevented the patient from being examined by two medical practitioners to be here stated, as in the statement accompanying the order for admission.]

Subjoined is a statement with respect to the mental and bodily condition of the above-named patient.

(Signed)

Clerk of asylum.

Dated the day of , 18 .

STATEMENT.

I have this day [some day not less than two clear days after the admission of the patient] seen and examined the patient mentioned in the above notice, and hereby certify that with respect to mental state he [or she], and that with respect to bodily health and condition he [or she]

(Signed)

Medical officer of asylum.

Dated the day of , 18 .

SCHEDULE (F), No. 5.

Form of Notice of Discharge, Removal, or Death.

I hereby give you notice, that pauper [or a private] patient admitted into this asylum on the day of was discharged therefrom recovered [or relieved, or not improved], or was removed to [mentioning the asylum, etc.] relieved [or not improved], by the authority of , [or died therein in the presence of], on the day of .

(Signed)

Clerk of the asylum.

Dated the day of , 18 .

In case of death, add, "I certify that the apparent cause of death of the said [as ascertained by post mortem examination (if so),] was"

(Signed)
Medical officer of the asylum.

SCHEDULE (G) No. 1.

Registry and Admission.—Register of Patients.

[See schedule (E), p. 893, supra.]

SCHEDULE (G) No. 2.

Register of Discharge, Removal and Deaths.

[See schedule (G 1), p. 894, supra.]

SCHEDULE (G), No. 3.

*Form of Medical Journal.**

Date.	Number of Patients.		Patients who are, or since the last Entry have been, under Restraint, or in Seclusion, when and for what Period, and Reasons, and in case of Restraint, by what Means.		Patients under Medical Treatment, and for what, if any, bodily Disorder.		Deaths, Injuries, and Violence to Patients since the last Entry.
	M.	F.	Males.	Females.	Males.	Females.	

* In the case of an asylum receiving both pauper and private patients, a separate journal to be kept in the above form for each class.

ACT TO AMEND THE LUNATIC ASYLUMS ACT, 1883.

18 & 19 Vict., ch. 105; Chitty, vol. 3, p. 197.

274. Section 3 of the Lunatic Asylums Act, 1853, shall extend to empower the justices of any one county or borough to authorise any committee of justices elected for such county or borough thereunder to treat and enter into an agreement for uniting with the subscribers to any such hospital as therein mentioned, and it shall not be necessary that any other county or borough be a party to such agreement; and section 5 of the said Act shall extend to empower any such committee of visitors as therein mentioned, and it shall not be necessary to enter into an agreement for uniting with the subscribers to any such hospital alone.

§ 1.
Any county
may unite
with subscrib-
ers to asylum.

275. [§ 2. The proportion of expenses between any county and borough may be fixed with reference to accommodation likely to be required.]

276. [§ 3. Agreements for uniting to be hereafter entered into to stipulate for contribution by counties and boroughs according to their relative populations for the time being, where not fixed according to foregoing provision.]

277. [§ 4. Where expenses are to be contributed in proportion to population, the same to be ascertained by last census for the time being.]

278. [§ 5. Where there is a dissolution of a union a new asylum to be provided.]

279. [§ 6. Provisions to apply to councils of boroughs where they have taken upon themselves the execution of the Lunatic Asylums Act, 1853.]

280. [§ 7. Places becoming boroughs after the commencement of the Lunatic Asylums Act, 1853, to be deemed boroughs annexed to the counties in which they are situate.]

281. The power given by section 77 of the Lunatic Asylums Act, 1853, to any two of the visitors of any asylum, being justices, to order any pauper lunatic chargeable to any parish or union within the county or borough, or any county or borough to which such asylum wholly or in part belongs, or to any such county, and who may be confined in any other asylum, or in any regis-

§ 8.
Visitors may
remove pau-
per lunatics
to proper
asylum.

tered hospital or licensed house, to be removed to such first mentioned asylum, shall be extended so as to authorise such visitors to order any pauper lunatic chargeable to any parish or union within any county or borough, or to any county for the reception of the pauper lunatics whereof into such first-mentioned asylum there is a subsisting contract, and who may be confined as aforesaid, to be removed to such first-mentioned asylum, and also to order any such pauper lunatic as hereinbefore mentioned to be removed from such first-mentioned asylum to any asylum, registered hospital or licensed house, subject nevertheless to the restriction contained in section 78 of the Lunatic Asylums Act, 1853.

282. [§ 9. Powers of commissioners and visitors to continue applicable to a house which has been licensed after expiration of licence, while any patients are therein.]

283. [§ 10. Contracts under forty-second section of Lunatic Asylums Act, 1853, may be renewed.]

284. [§ 11. Provision for burial for pauper lunatics.]

285. [§ 12. Power to enter into agreements with cemetery company or burial board.]

286. [§ 13. Committee of visitors may convey land for burial ground for lunatics, etc., dying in the asylum.]

287. [§ 14. Pauper lunatics whose settlements cannot be ascertained, where found in a borough which does not contribute to the county expenditure, to be chargeable to such borough.]

288. [§ 15. Seals of commissioners, visitors and justices to orders, etc., dispensed with.]

289. So much of section six of the said Act of the sixteenth and seventeenth of her majesty, chapter ninety-six as requires such assent as therein mentioned of two of the commissioners not to be given until after such commissioners have by personal examination of the patient satisfied themselves of his desire to remain shall be repealed.

290. [§ 17. Consent of committee of management of any hospital sufficient to authorise a patient being sent to any place for health.]

291. If after the lapse of two months from the expiration of ^{§ 18.} detention of any licence for the use of any house for the recep-

§ 16.
Part of 18 & 19
Vict., ch. 100,
§ 6, repealed.

tion of lunatics which has not been renewed, or if, after the revocation of any such licence, there be in any such house two or more lunatics, every person keeping such house, or having the care or charge of such lunatics, shall be guilty of a misdemeanor.

lunatic after
revocation of
licence a mis-
demeanor.

ACT TO AMEND THE LUNACY ACT, CHAP. 97.

19 & 20 Vict., ch. 87, Chitty, vol. 3, p. 200.

292. Where a committee is or shall hereafter be appointed to provide an asylum for any county under the Lunatic Asylums Act, 1853, the recorder of every borough now or hereafter annexed to such county for the purposes of the said Act shall, at the general or quarter sessions next after such appointment as aforesaid, or where such committee has been already appointed, shall at the general or quarter sessions next after the passing of this Act, appoint two justices of such borough to be members of such committee.

§ 1.
Two justices
to be members
of committee
to provide
asylum.

CUSTODY AND CARE OF CRIMINAL LUNATICS.

23 & 24 Vict., ch. 75; Chitty, vol. 3, p. 200.

293. It shall be lawful for her majesty from time to time, by warrant under her royal sign manual, to appoint that any asylum or place in England which her majesty may have caused to be provided or appropriated, and may deem suitable for this purpose, shall be an asylum for criminal lunatics, and the provisions of this Act shall be applicable to every such asylum.

§ 1.
Asylum for
criminal
lunatics.

294. It shall be lawful for one of her majesty's principal secretaries of state, by warrant under his hand, to direct to be conveyed to and kept in any such asylum any person for whose safe custody during her pleasure her majesty is authorised to give order, or whom such secretary of state might direct to be removed to a lunatic asylum under any of the Acts hereinbefore mentioned, or under any other Act of parliament, or any person sentenced or

§ 2.
Commitment
of criminal
lunatics to
asylum.

ordered to be kept in penal servitude, who may be shown to the satisfaction of the secretary of state to be insane, or to be unfit from imbecility of mind for penal discipline; and the secretary of state may direct to be removed to and kept in such asylum any such persons as aforesaid, who, under any previous order of her majesty or warrant of the secretary of state, may have been placed and remain in any county lunatic asylum, or other place of reception of lunatics, and every person directed by the secretary of state to be conveyed or removed to and kept in an asylum under this Act, shall be conveyed to such asylum accordingly, and shall be kept therein until lawfully removed or discharged, and with every person so conveyed or removed there shall be transmitted a certificate, as set forth in schedule (A), to this Act annexed, duly filled up and authenticated, the contents of which certificate shall be transcribed into the general register to be kept in every such asylum.

295. [§ 3. Nothing to affect the authority of the crown to make other provision for the custody of a criminal lunatic.]

296. It shall be lawful for the secretary of state from time to time to appoint any such persons as he may think fit, being not less than three in number to be a council of supervision for any asylum under this Act, and to remove all or any of the said council, and upon the removal, death or resignation of any member of the said council to appoint another in his place; and also from time to time to appoint for the asylum a resident medical superintendent, a chaplain, and such other officers, assistants and servants as he may deem necessary, and at pleasure to remove such superintendent, chaplain, officers, assistants and servants respectively: and the secretary of state, with the approval of the commissioners of her majesty's treasury, shall fix the salaries to be paid to the superintendent, chaplain, officers, assistants and servants of such asylum.

297. It shall be lawful for the secretary of state from time to time to make rules for the government and management of the asylum, and for the duties and conduct of the officers thereof, and for the care and treatment of the persons confined therein, and to subscribe a

§ 4.
Council of supervision and officers appointed by sec'y of state.

§ 5.
Sec'y of state to make rules for the government of the asylum.

certificate that they are fit to be enforced and that such rules, when so certified, shall be binding on the council, and all officers, assistants and servants of the asylum, and all other persons whomsoever, and all such rules shall be laid before parliament within twenty-one days after they shall be certified, or if parliament be not sitting then within twenty-one days after the next meeting of parliament.

298. Subject to the rules certified by the secretary of state under this Act, the council of supervision shall superintend and direct the management and conduct of the asylum, and the care and treatment of the lunatics confined therein; and such council or any two of them shall from time to time, as by the rules shall be provided, and at such other times as they may think fit, report in writing to the secretary of state in relation to the management and conduct of the said asylum and the condition thereof, and to any matters concerning the same; and if any person detained and confined as aforesaid shall be of a religious persuasion differing from that of the established church, a minister of such persuasion at the special request of such person or of his friends or relations shall be allowed to visit him at proper and reasonable times by application to the medical superintendent, and under such rules as may be approved of by the secretary of state, but no such person shall be compelled to attend any of the ordinances or instructions of any religious persuasion other than his own.

§ 6.
Subject to
such rules,
council to su-
perintend
asylum.

299. The provisions of the Acts hereinbefore mentioned, or of any other Act for the removal or discharge of lunatics whom the said secretary of state is, under the hereinbefore mentioned Acts or any other Act now in force, authorised to direct to be removed to any lunatic asylum, shall extend and apply to any lunatic whom the secretary of state may direct to be conveyed to any asylum for criminal lunatics appointed under this Act; Provided always, that any order for removal or discharge which may now be made by the secretary of state on the certificate of two physicians or surgeons may be made on the certificate of the resident medical superintendent of the asylum and any two of the council of supervision.

§ 7.
Removal and
discharge of
lunatics.

300. [§ 8. Repealed, see 30 Vict., ch. 12, § 6, *infra*.]

301. Provided also, that it shall be lawful for the secretary of state by his warrant to permit any person confined in the asylum to be absent from such asylum upon trial for such period as he may think fit, or to permit any such person to be absent from such asylum upon such conditions in all respects as to the secretary of state shall seem fit, and in case any person so permitted to be absent upon trial for any period do not return at the expiration of such period, or in case any of the conditions on which any person is so permitted to be absent be broken, the person not returning at such expiration or absent after such condition has been broken, as the case may be, may be retaken as herein provided in the case of an escape.*

302. All provisions in the said Act of the third and fourth years of her majesty for the payment of the conveyance of such insane persons as therein mentioned to any asylum or other receptacle, and of his maintenance therein, shall extend and be applicable to the conveyance of any such person to any asylum for criminal lunatics, and his maintenance therein, and all sums payable under any order made under such provisions shall be paid and applied towards defraying or reimbursing the expenses in respect of which the same are paid, or other expenses of the asylum, as the commissioners of her majesty's treasury may direct.†

303. In case of escape of any person confined in any asylum for criminal lunatics, he may be retaken at any time by the superintendent of such asylum or any officer or servant belonging thereto, or any person assisting such superintendent, officer or servant in this behalf, or any other person authorised in writing in this behalf by the secretary of state or such superintendent, and conveyed to and received and detained in such asylum.

304. Any person who rescues any person ordered to be conveyed to any asylum for criminal lunatics during the time of his conveyance thereto or of his confinement therein, and any officer or servant in any asylum for criminal lunatics who through wilful neglect or

* See 30 Vict., ch. 12, § 4.

† See 30 Vict., ch. 12, § 4.

connivance permits any person confined therein to escape therefrom, or secretes or abets or connives at the escape of any such person, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding four years, or to be imprisoned for any term not exceeding two years, with or without hard labour, at the discretion of the court, and any such officer or servant who carelessly allows any such person to escape as aforesaid shall, on summary conviction before two justices of such offence, forfeit any sum not exceeding twenty pounds nor less than two pounds.

305. Any superintendent, officer, nurse, attendant, servant or other person employed in any asylum for criminal lunatics who strikes, wounds, ill-treats or wilfully neglects any person confined therein, shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence, and on conviction under the indictment to fine or imprisonment with or without hard labour, or to both fine and imprisonment, at the discretion of the court, or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds nor less than two pounds.

§ 13.
Penalties for
cruelty.

306. Two or more of the commissioners in lunacy, one at least of whom shall be a physician or surgeon, and one at least a barrister, shall, once or oftener in each year, on such day or days and at such hours of the day and for such length of time as they think fit, and also at any time when directed by the secretary of state, visit every asylum for criminal lunatics, and shall inquire as to the condition, as well mental as bodily, of the persons confined therein, or any of them, and shall also make such other inquiries as to such asylum as to them may seem proper, or as such secretary of state may direct.

§ 14.
Commission-
ers in lunacy
to visit
asylums.

307. The commissioners in lunacy shall in the month of March in every year report to one of her majesty's principal secretaries of state the visits made as aforesaid in the preceding year, and all such particulars in relation to every asylum visited as aforesaid as they think deserving of notice, and shall also report in like manner in relation to any visit made by the direction of the

§ 15.
Report to
secretary of
state.

secretary of state, as soon as conveniently may be after such visit, and a copy of every such report shall be laid before parliament within twenty-one days after the receipt thereof, or if parliament be not sitting, then within twenty-one days after the next meeting of parliament.

SCHEDULE (A).

Statement respecting Criminal Lunatics to be filled up and transmitted to the Medical Superintendent with every Criminal Lunatic.

Name.

Age.

Date of admission.

Former occupation.

From whence brought.

Married, single, or widowed.

How many children.

Age of the youngest.

Whether first attack.

When previous attacks occurred.

Duration of existing attack.

State of bodily health.

Whether suicidal or dangerous to others.

Supposed cause.

Chief delusions or indications of insanity.

Whether subject to epilepsy.

Whether of temperate habits.

Degree of education.

Religious persuasion.

Crime.

When and where tried.

Verdict of jury.

Sentence.

LUNACY REGULATION ACT, 1862.

25 & 26 Vict., ch. 86; Chitty, vol. 3, p. 203.

308. This Act may be cited as "The Lunacy Regulation Act, § 1. Short title. 1862."

309. [§ 2. Act to be construed as part of Lunacy Regulation Act, 1853, 16 & 17 Vict., ch. 70.]

310. The inquiry to be made under every order for inquiry or commission of lunacy or issue shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of such inquiry of unsound mind, and incapable of managing himself or his affairs, and no evidence as to anything done or said by such person, or as to his demeanor or state of mind at any time being more than two years before the time of the inquiry, shall be receivable in proof of insanity on any such inquiry, or on the trial of any traverse of any inquisition, unless the judge or master shall otherwise direct.

§ 3.
Nature of inquiry under commission of lunacy.

311. [§ 4. Inquiries before a jury to be made by means of an issue to one of the superior courts of common law.]

312. [§ 5. Reference in other Acts to inquisition to apply to verdict on issue.]

313. On the trial of every such issue as last aforesaid the alleged insane person shall, if he is within the jurisdiction, be examined before the taking of the evidence is commenced, and at the close of the proceedings, before the jury consult as to their verdict, unless the presiding judge shall otherwise direct; and such examinations of the alleged insane person shall take place either in open court or in private as the judge shall direct.

§ 6.
Examination of lunatics.

314. [§ 7. No traverse of an inquisition made by one of the judges of the superior courts and by a jury to be granted, but new trial may be ordered by the lord chancellor.]

315. Upon the hearing of any petition for inquiry it shall be lawful for the alleged lunatic, by himself, his counsel or solicitor, orally, or by petition addressed to the lord chancellor intrusted as aforesaid, to demand an inquiry by a jury, and such demand shall have the same effect as if made by notice filed with the registrar in accordance with the provisions of the said Act.

§ 8.
Demand of inquiry by jury.

316. Upon such hearing the alleged lunatic may, by himself, his counsel or solicitor, orally, or by petition as aforesaid, withdraw any notice of demanding an inquiry by a jury previously filed by him.

§ 9.
Demand may be withdrawn.

317. [§ 10. Commission may be superseded on conditions.]

318. [§ 11. Lord chancellor may order costs.]

319. [§§ 12-17. As to property of insane persons when of small amount. Charging orders.]

320. [§ 18. Power to masters to summon witnesses.]

321. It shall be the duty of the visitors to visit persons of unsound mind within the meaning of this Act at such times and in such rotation and manner, and to make such inquiries and investigations as to their care and treatment and mental and bodily health, and the arrangements for their maintenance and comfort, and otherwise respecting them, as the lord chancellor shall by general orders, or as the lord chancellor intrusted as aforesaid shall by special order in any particular case from time to time direct.

322. Provided always, that every lunatic shall be personally visited and seen by one of the said visitors twice at least in every year, and such visits shall be so regulated as that the interval between successive visits to any such lunatic shall in no case exceed eight months: Provided always, that every lunatic resident in a private house shall, during the two years next following inquisition, be so visited at least four times in every year.

323. The visitors shall also visit such persons alleged to be insane, and shall make such inquiries and reports in reference to them as the lord chancellor intrusted as aforesaid may direct, and at the expiration of every six calendar months they shall report to the lord chancellor the number of visits which they shall have made, the number of patients they shall have seen, and the number of miles they shall have travelled during such months, and shall on the first day of January in each year make a return to the lord chancellor of all sums received by them for travelling expenses, or upon any other account; and a copy of such reports, showing the number of visits made, the number of patients seen, and the number of miles travelled, and also a copy of such return of sums received for travelling expenses, or upon any other account, shall be laid before parliament on or before the first day of February in each year, if parliament be then sitting, and if not, within twenty-one days next after the commencement of the next session of parliament.

324. [§ 23. Power to the lord chancellor to allow pensions to present visitors, if desirous of retiring.]

325. The medical visitors, to be hereafter appointed, and the

legal visitor, shall hold their offices during their good behaviour, but may be removed therefrom by the lord chancellor in case of misconduct or neglect in the discharge of their duties, or of their being disabled from performing the same, and they shall receive salaries of fifteen hundred pounds each, and shall not be in any way engaged in the practice of their respective professions.

§ 24.
Visitors to
hold office
during good
behaviour,
compensation.

326. [§ 25. Clerks to visitors.]

327. [§ 26. Superannuation allowances to officers in lunacy.]

328. [§ 27. Payment of pensions and salaries.]

329. The registrar in lunacy shall hold his office during good behaviour, and may be removed therefrom by the lord chancellor in case of misconduct or neglect in the discharge of his duties or his being disabled from performing the same.

§ 28.
Registrar to
hold office
during good
behaviour.

330. [§ 29. Office copies of orders to be acted upon by a accountant-general and others.]

LUNACY ACTS AMENDMENT ACT.

25 & 26 Vict., ch. 111; Chitty, vol. 3, p. 207.

331. [§ 1. Interpretation of terms.]

332. [§ 2. Construction of Act.]

333. This Act may be cited for all purposes as the "Lunacy Acts Amendment Act, 1862."

§ 3. Short title.

334. [§ 4. Plans, etc., of visitors, when not approved by the quarter sessions, to be submitted to secretary of state.]

335. [§ 5. Estimates to accompany plans.]

336. [§ 6. Excess of payment may be made to a building and repair fund.]

337. Where any contract has been made by a committee of visitors of any county or borough under the Lunacy Act, chapter ninety-seven, section forty-two, for the reception into any asylum, hospital, or licensed house of the whole or a portion of the pauper lunatics of such county or borough, it shall be lawful for the justices of such county or borough, so long as such contract is subsisting, to defray out of the county or borough rate so much of the weekly charge agreed upon for each pauper lunatic received therein as may, in the opinion of such committee of visitors,

§ 7.
Contract for
reception of
lunatics.

represent the sum due for the use of such asylum, hospital, or licensed house, not exceeding, however, one-fourth of the whole of such weekly charge, in exoneration to that extent of the union to which the maintenance of any such pauper lunatic may be chargeable.

338. It shall be lawful for the visitors of any asylum and the guardians of any parish or union within the district for which the asylum has been provided, if they shall see fit, to make arrangements, subject to the approval of the commissioners and the president of the poor law board, for the reception and care of a limited number of chronic lunatics in the workhouse of the parish or union, to be selected by the superintendent of the asylum, and certified by him to be fit and proper so to be removed.

339. The committee of visitors of any asylum may provide accommodation for the burial of pauper lunatics dying in the asylum by acquiring a new burial ground, or by enlarging any existing burial ground; they may purchase for the purpose aforesaid any land, and may grant any land when purchased, or any land already belonging to them, to any person or body of persons, to be held on trust for a new burial ground, or as part of an existing burial ground, or they may themselves hold such land on trust as a new burial ground or as part of an existing burial ground; they may also contribute any sums of money to any person or body of persons on condition of such person or body of persons agreeing to provide accommodation for the burial of such paupers as aforesaid in any burial ground; they may also take steps for the consecration of any new burial ground or enlarged burial ground, or any part thereof, and in the case of a new burial ground they may provide for the appointment of a chaplain therein; they may enter into any agreements necessary for carrying into effect the powers conferred by this section, but the exercise of such powers shall be subject to the restrictions following:

Firstly, that not more than two statute acres shall in the case of any one asylum be purchased or granted as a new burial ground, or for an enlargement of an existing burial ground:

Secondly, that the sanction of the court of general or quarter

sessions and of one of her majesty's principal secretaries of state shall be given to any plan that may be proposed by any visitors for carrying into effect this section.

All expenses incurred by any visitors in providing accommodation for the burial of pauper lunatics, in pursuance of this Act, shall be deemed to be moneys, costs, and expenses payable for the purposes of the Lunacy Act, chapter ninety-seven, and may be defrayed accordingly.

340. [§ 10. 8 & 9 Vict., ch. 18, incorporated with this Act.]

341. [§ 11. Taking on lease additional lands for use of asylum.]

342. [§ 12. Superannuation of officers of asylum.]

343. [§ 13. Provision for superannuation of matrons.]

344. Before the grant by the justices of a licence for the reception of lunatics to a house which has not been previously licensed for that purpose, the notice given by the applicant, and the plan and statements accompanying the same, or copies of such notice, plan, and statements respectively, shall be transmitted by the applicant to the commissioners, and the commissioners shall inspect or cause to be inspected the house and land or appurtenances proposed to be included in the licence, and shall ascertain, with reference as well to the situation as to the structure, arrangements and condition of the premises, whether the same are suitable for the reception of the patients proposed to be received therein, and the commissioners shall transmit to the clerk of the peace for the county or borough a report in reference to such application, and no licence shall be granted by the justices of the county or borough, in pursuance of such application, until the report of the commissioners with reference thereto, has been received by the said clerk of the peace, and taken into consideration by the justices in general, or quarter, or special sessions assembled. Where a licence is granted by the justices of a county or borough in respect of a house not previously licensed, such licence shall, as nearly as conveniently may be, be according to the form in the schedule marked (A), to this Act, instead of in the form prescribed by the Lunacy Act, chapter one hundred.

§ 14.
Inspection to
be made be-
fore licences
are granted.

345. Before the consent of any visitors is given to any addition or alteration being made in or about any

§ 15.
Notice of al-

terations to be
given to com-
missioners.

licensed house, or the appurtenances, the notice of the proposed addition or alteration, and plan thereof, and accompanying description given to the clerk of the peace, or copies thereof respectively, shall be transmitted by him to the commissioners, who shall, after making or causing to be made such inquiries or inspection (if any) as they may deem proper, transmit to the said clerk of the peace, a report stating their approval or disapproval thereof; and the visitors shall not consent to such addition or alteration until they have received and considered such report.

§ 16.
Provisions
for non-resi-
dent proprie-
tors.

346. In all cases of licensed houses, where the proprietor or proprietors thereof have first received their licence or licences before the date of the passing of the Lunacy Act, chapter one hundred, the physician, surgeon, or apothecary required by Act of parliament to reside in or visit such house shall be approved, in the case of a house licensed by the commissioners, by the commissioners, and in the case of a house licensed by justices, by the justices; and any proprietor of a licensed house to which this section applies who permits any physician, surgeon, or apothecary, who has not been approved by the commissioners or by the justices, as the case may be, to reside in or visit at such house in such capacity aforesaid for a period exceeding one calendar month, shall incur a penalty not exceeding five pounds for every day beyond such month during which such physician, surgeon, or apothecary so resides or visits; the above-mentioned period of one month shall be reckoned in the case of a physician, surgeon or apothecary so resident or visiting at the time of the passing of this Act from the date of the passing thereof, and in the case of any fresh appointment of any physician, surgeon, or apothecary as aforesaid from the date of such appointment.

§ 17.
Penalties for
infringing
terms of li-
cence.

347. If any person empowered by licence issued under the Lunacy Act, chapter one hundred, to employ his house and premises for the reception of lunatics receives into his house any patients beyond the number specified in his licence, or fails to comply with the regulations of his licence in respect to the sex of the patients to be received, or the class of patients, whether private or not, to be received, he shall, in respect of each patient received in con-

travention of his licence, incur a penalty not exceeding fifty pounds.

348. [§ 18. Extension of powers to take boarders in houses.]

349. [§ 19. Amends 16 & 17 Vict., ch. 97, § 67, q. v.]

350. No person shall be detained in any workhouse being a lunatic or alleged lunatic, beyond the period of fourteen days, unless in the opinion given in writing, of the medical officer of the union or parish to which the workhouse belongs such person is a proper person to be kept in a workhouse, nor unless the accommodation in the workhouse is sufficient for his reception, and any person detained in a workhouse in contravention of this section shall be deemed to be a proper person to be sent to an asylum within the meaning of section sixty-seven of the Lunacy Act, chapter ninety-seven; and in the event of any person being detained in a workhouse in contravention of this section, the medical officer shall for all the purposes of the Lunacy Act, chapter ninety-seven, be deemed to have knowledge that a pauper resident within his district is a lunatic, and a proper person to be sent to an asylum, and it shall be his duty to act accordingly, and further to sign such certificate as is contained in schedule (F), to the said Act, No. 3, with a view to more certainly securing the reception into an asylum of such pauper lunatic as aforesaid.

§ 20.
Lunatics to be
sent to proper
asylums.

351. The list of lunatic paupers required by section sixty-six of the Lunacy Act, chapter ninety-seven, to be made out by the medical officer, shall be in the form in the schedule marked (B), hereto, and not in the form required by the said section, and shall, as respects such of the lunatics therein mentioned as may be in any workhouse, state whether, in the opinion of the medical officer, the workhouse is or not sufficient for the accommodation of the lunatics detained therein, and whether or not the lunatics detained therein are proper persons to be kept in a workhouse.

§ 21.
Amendment of
lists of pauper
lunatics in
workhouses.

352. When a person has been found lunatic by inquisition an order, signed by the committee appointed by the lord chancellor, and having annexed thereto an office copy of the order appointing such committee, shall be a sufficient authority for the reception of such person into any asylum, hospital, licensed house, or other

§ 22.
Order for re-
ception and
visitation of
lunatics.

house, without any further order or any such medical certificates as are required by section ninety of the Lunacy Act, chapter one hundred, and sections four and eight of the Lunacy Act, chapter ninety-six, and the provisions of the section ninety of the Lunacy Act, chapter one hundred, as to the visitation of every single patient once in every two weeks by a physician, surgeon, or apothecary, shall not apply to any person found lunatic by inquisition as aforesaid.

353. No order for the reception of a private patient into any asylum or registered hospital, licensed or other house, made in pursuance of the Lunacy Acts, chapters ninety-six and ninety-seven, or either of them, shall authorise the reception of such patient after the expiration of one calendar month from its date, nor unless the person subscribing such order has himself seen the patient within one month prior to its date, nor unless a statement of the same and place where such person last saw the patient is added to such order.

§ 23.
Persons signing to have seen patient within one month.

354 The following persons shall be prohibited from signing any certificate or order for the reception of any private patient into any licensed or other house :

§ 24.
Who not to sign orders.

First, any person receiving any percentage or otherwise interested in the payment to be made by or on account of any patient received into a licensed or other house :

Second, any medical attendant as defined by the Lunacy Act, chapter one hundred.

355. Where an order is made, in pursuance of the Lunacy Acts, or any of them, for the reception of any private or pauper lunatic into any asylum, registered hospital, or licensed house, there shall be inserted in every such order, whenever it be possible, the name and address of one or more of the relations of the lunatic ; and in the event of death it shall be the duty of the clerk of such asylum, the superintendent of such hospital, and the proprietor or superintendent of such licensed house, to send by post notice of his death in a prepaid letter addressed to such relation or one of such relations.

§ 25.
The address of relatives of paupers to be given.

356. The order and certificate required by law for the detention of a patient as a pauper shall extend to authorise his detention, although it may afterwards

§ 26.
Same orders to apply to

appear that he is entitled to be classified as a private patient; and the order and certificates required by law for the detention of a patient as a private patient shall authorise his detention, although it may afterwards appear that he ought to be classified as a pauper patient.

pauper and
private pa-
tients.

357. Where any medical certificate upon which a patient has been received into any asylum, registered hospital, licensed or other house, or either of such certificates, is deemed by the commissioners incorrect or defective, and the same are or is not duly amended to their satisfaction within fourteen days after the reception by the superintendent or proprietor of such asylum, registered hospital, or licensed or other house of a direction or writing from the commissioners requiring amendment of the same, the commissioners or any two of them may, if they see fit, make an order for the patient's discharge.

§ 27.
Provisions for
defective cer-
tificates.

358. The documents required by the Lunacy Act, chapter one hundred, sections fifty-two and ninety, and the Lunacy Act, chapter ninety-seven, section eighty-nine, to be sent to the commissioners in lunacy, after two clear days, and before the expiration of seven clear days from the day on which any private patient has been received into any licensed house, registered hospital, or asylum, shall, with the exception of the statement now required to be subjoined to the notice of admission into any asylum, hospital, or licensed house, be transmitted to the commissioners within one clear day from the day on which any patient has been received into any such house, hospital, or asylum as aforesaid, and the said sections shall, so far as relates to the said documents, other than the said statement, be construed as if the words, "one clear day" were substituted therein for the words "after two clear days, and before the expiration of seven clear days;" nevertheless the said excepted statement shall be transmitted as heretofore, save that it shall be separate from the said notice, and shall refer to the order of admission by the date thereof, instead of referring to it as the above notice, and the words referring to the said statement as being subjoined shall be omitted in the said notice.

§ 28.
Transmission
of documents
to commission-
ers upon ad-
mission of pa-
tients.

359. Every licensed house may be visited at any time, and,

§ 29.
Visits by com-
missioners. if situate within their immediate jurisdiction, shall be visited twice at least in every year by any one or more of the commissioners, in addition to the visits now required to be made by two at least of the commissioners; and if not within the immediate jurisdiction of the commissioners, may be visited at any time, and shall be visited twice at least in every year by one or more of the visitors, in addition to the visits now required to be made by two at least of the visitors. Every commissioner visiting alone shall have the same powers as two commissioners would have under section sixty-one of the Lunacy Act, chapter one hundred; and all the provisions of the said Act contained in sections sixty-three, sixty-four, sixty-five, sixty-six, and sixty-seven shall apply to a commissioner or visitor visiting alone as the case may be, in the same manner as they would apply under the same Act to two or more commissioners or two or more visitors visiting together.

§ 30.
Single com-
missioner may
visit asylums
and jails. 360. Any one or more of the commissioners may at any time visit every asylum and hospital for lunatics, and every gaol in which there may be, or alleged to be, any lunatic, in addition to the visits now required or empowered to be made by two at least of the commissioners, and every commissioner so visiting alone shall have the same powers as two or more commissioners would perform and have, in the case of an asylum or gaol, in pursuance of the one hundred and tenth section of the Lunacy Act, chapter one hundred, and in the case of a hospital, in pursuance of section sixty-one of the Lunacy Act, chapter one hundred.

§ 31.
Power to re-
move lunatic
from work-
house to
asylum. 361. Where upon the visitation of any workhouse by any two or more of the commissioners in lunacy it appears to them that any lunatic or alleged lunatic therein is not a proper person to be kept in a workhouse, they may by an order under their hands direct such lunatics to be received into an asylum, and any order so made shall have the same effect, and be obeyed by the same persons, and subject them to the same penalties in case of disobedience, as an order made by a justice for the reception of a lunatic into an asylum under the sixty-seventh section of the Lunacy Act, chapter ninety-seven: Provided

always, that it shall be lawful for the guardians of the union or parish to which any workhouse belongs to appeal against such order at any time within one calendar month from the making thereof to her majesty's principal secretary of state for the home department, who shall thereupon exercise the power given to him by section one hundred and thirteen of the Lunacy Act, chapter one hundred, save that he shall not appoint thereunder the commissioners who made the order appealed against, or either of them; and the order in the matter of the secretary of state, made upon the report of the special visitation, shall be binding on all parties concerned.

362. Any two or more of the commissioners in lunacy may visit any pauper lunatic or alleged lunatic not in an ^{§ 32.} asylum, hospital, licensed house, or workhouse, and ^{Removal of} ^{single patients.} may, if they think fit so to do, call to their assistance a physician, surgeon, or apothecary, and examine such pauper; and if such physician, surgeon, or apothecary, sign a certificate with respect to such pauper, according to the form and schedule (F), No. 3, annexed to the Lunacy Act, chapter ninety-seven, and the commissioners are satisfied that such pauper is a lunatic, and a proper person to be taken charge of and detained under care and treatment, they may, by an order under their hands, direct such lunatic or alleged lunatic to be received into an asylum, and any order so made shall have the same effect, and be obeyed by the same persons, and subject them to the same penalties in case of disobedience, as an order made by a justice for the reception of a lunatic into an asylum under the sixty-seventh section of the Lunacy Act, chapter ninety-seven.

363. The order made by any two or more of the commissioners in lunacy in pursuance of this Act may ^{§ 33.} authorise the admission of a lunatic not only into ^{Effect of order} ^{for removal.} any asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, but also into any other asylum for the reception of pauper lunatics of such county or borough, and also into any asylum for any other county or borough, or any hospital registered or house licensed for the reception of lunatics, under the same circumstances and subject to the same conditions under which an order of the justice or justices may authorise such admission in pur-

suance of section seventy-two of the Lunacy Act, chapter ninety-seven.

364. The superintendent of every asylum shall, once at least in each half year, transmit to the guardians of every union, and of every parish under a board of guardians, and the overseers of every parish not in a union nor under a board of guardians, a statement of the condition of every pauper lunatic chargeable to such union or parish.

§ 34.
Statement of
condition of
pauper lunatics.

365. The inquiries authorised to be made under section sixty-four of the Lunacy Act, chapter one hundred, or under section ninety-two of the same Act, and the provisions amending the same, may include inquiries as to the moneys paid to the superintendent or proprietor on account of any lunatic under the care of such superintendent or proprietor.

§ 35.
Amendment
to 8 & 9 Vict.,
ch. 100, § 64.

366. The proprietor of every licensed house within the jurisdiction of visitors appointed by justices shall, within three days after a visit by the visiting commissioners or commissioner, transmit a true and perfect copy of the entries made by them or him in the visitors' book, the patients' book and the medical visitation book respectively, distinguishing the entries in the several books, to the clerk of the visitors as well as to the commissioners, and the copies so transmitted to the clerk of the visitors of all such entries in the visitors' book relating to any such licensed house, and made since the grant or last renewal of the licence thereof, shall be laid before the justices on taking into consideration the renewal of the licence to the house to which such entries relate; and every such proprietor as aforesaid who shall omit to transmit as hereinbefore mentioned a true and perfect copy of every or any such entry as aforesaid shall for every such omission forfeit a sum not exceeding ten pounds.

§ 36.
Copies of
entries of com-
missioners
and visitors.

367. The visiting committee of every union, and of every parish under a board of guardians, and the overseers of every parish not in a union nor under a board of guardians, shall once at least in each quarter of a year enter in a book to be provided and kept by the master of the workhouse such observations as they may think fit to make respecting the dietary, accommodation, and treatment of the lu-

§ 37.
Visiting com-
mittee to enter
observations
in a book.

natics or alleged lunatics for the time being in the workhouse of their union or parish, and the book containing the observations made in pursuance of this section by the visiting guardians or overseers shall be laid by the master before the commissioner or commissioners on his or their next visit.

368. Section eighty-six of the Lunacy Act, chapter one hundred, and section seventeen of the Act eighteenth and nineteenth Victoria, chapter one hundred and five, shall extend to authorise the proprietor or superintendent of any licensed house or hospital, with such consent, and to be given on such approval as thereby required, to permit any patient to be absent from such hospital or house upon trial for such a period as may be thought fit:

§ 38.
Temporary absence from asylums.

Two of the commissioners, as regards any hospital or licensed house, and two of the committee of governors of any hospital, and two of the visitors of any licensed house, as regards any licensed house within the jurisdiction of visitors, may of their own authority permit any pauper patient therein to be absent from such hospital or house upon trial for such period as they may think fit, and may make or order to be made an allowance to such pauper not exceeding what would be the charge for him in such hospital or house, which allowance shall be charged for him and be payable as if he were actually in such hospital or house, but shall be paid over to him, or for his benefit, as the said commissioners or visitors may direct:

In case any person so allowed to be absent on trial for any period do not return at the expiration thereof, and a medical certificate as to his state of mind certifying that his detention as a lunatic is no longer necessary be not sent the proprietor or superintendent of such licensed house or hospital, he may at any time within fourteen days after the expiration of the same period be retaken as in the case of an escape.

369. If any officer or servant in any hospital or licensed house through wilful neglect or connivance permits any patient to escape from such hospital or licensed house, or secretes or abets or connives at the escape of any patient from such hospital or licensed house, he shall, for every such offence incur a penalty not exceeding twenty pounds.

§ 39.
Penalty for conniving at escape.

370. Every letter written by a private patient in any asy-

§ 40.
Correspond-
ence of pri-
vate patient.

lun, hospital, or licensed house, or by any single patient, and addressed to the commissioners in lunacy or committee, or in the case of houses within the jurisdiction of visitors to the visitors or any of them, shall, unless special regulations to the contrary have been given by such commissioners or visitors, be forwarded unopened.

Every letter written by a private patient in any asylum, hospital or licensed house, or by any single patient, and addressed to any person other than the commissioners or committee or visitors or one of them, shall be forwarded to the person to whom it is addressed, unless the superintendent in the case of an asylum or hospital, the proprietor in the case of a licensed house, and the person having the charge of a single patient, in the case of a single patient, prohibit the forwarding of such letter, by endorsement to that effect under his hand on the letter, in which case he shall lay all the letters so endorsed before the visiting commissioners, committee or visitors, as the case may be, on their next visit. Any superintendent, proprietor or person in charge of a single patient failing to comply with the provisions of this section as to laying any letter before the commissioners, or committee, or visitors, that is not forwarded to the address of the person to whom it is directed, or being privy to the detention by any other person, of any letter detained in contravention of this section, shall incur a penalty not exceeding twenty pounds in respect of each offence; and any person detaining any letter in contravention of this section shall incur, in respect of each letter so detained, a penalty not exceeding twenty pounds.

371. Every person having the care or charge of a single patient shall, in addition to the notice required to be given by the ninetieth section of the Lunacy Act, chapter one hundred, before the expiration of seven clear days from the day on which he has taken the patient under his care or charge, transmit to the commissioners a statement of the condition of the patient, according to the form in schedule (F) annexed to the said last-mentioned Act, such statement to be signed by the physician, surgeon, or apothecary visiting the patient in pursuance of the ninetieth section of the Lunacy Act, chapter one hundred.

§ 41.
Statement as
to condition
of single pa-
tients.

If any person having the care or charge of a single patient

fails to transmit such statement as aforesaid within such time as is required by this section he shall be guilty of a misdemeanor.

372. In the case of single patients the commissioners may from time to time make regulations as to the form of any particulars to be entered in the "Medical Visitation Book," required to be kept by the ninetieth section of the Lunacy Act, chapter one hundred, and if the person having the care or charge of a single patient fails to comply with the regulations so made he shall in respect of each offence incur a penalty not exceeding five pounds.

§ 42.
Commissioners may prescribe forms.

373. If there be no person capable or qualified, under section seventy-two or seventy-three of the said Lunacy Act chapter one hundred, to direct the discharge or removal of any such patient as herein mentioned from any registered hospital or licensed house, the commissioners may order the discharge or removal of such patient, as they may think fit.

§ 43.
Discharge of private patients.

374. The superintendent of every asylum, and every person having the care or charge of a single patient, shall, in the event of the death of any patient, transmit to the coroner of the county or borough the same statement as is required by law to be transmitted in the case of the death of any patient in any hospital or licensed house, and if such coroner, after receiving such statement, thinks that any reasonable suspicion attends the cause and circumstances of the death of such patient, he shall summon a jury to inquire into the circumstances of such death.

§ 44.
Report to coroner of death of single patient.

Any superintendent or person in charge who makes default in complying with the requisitions of this section shall be guilty of a misdemeanor.

375. [§ 45. Chargeability of pauper lunatics whose settlements cannot be ascertained where found in certain boroughs.]

376. [§ 46. Amendment of 8 & 9 Vict., ch. 100, § 100, as to power of administering oaths.]

377. [§ 47. Definition of physician.]

378. [§ 48. Part of section 132 of 16 & 17 Vict., ch. 97, repealed.]

SCHEDULE (A).

Form of Licence.

Know all men, that we, the undersigned justices of the peace, acting in and for _____ in general [or quarter or special] sessions assembled, do hereby certify that A. B. of _____ in the parish of _____ in the county of _____ hath delivered to the clerk of the peace a plan and description of a house and premises proposed to be licensed for the reception of lunatics, situate at _____ in the county of _____ and which has not been previously licensed for that purpose, and hath applied to us for a licence thereof: and whereas the particulars of the said application have been transmitted to the commissioners in lunacy, and their report in reference to the said application has been received, and has been taken into consideration by us; and we, having considered and approved the application, do hereby authorise and empower the said A. B. (he intending or not intending to reside therein) to use and employ the said house and premises for the reception of _____ male [or female, or _____ male and _____ female] lunatics, of whom not more than _____ shall be private patients, for the space of _____ calendar months from this date.

Given under our hand and seals, this _____ day of _____ in the year of our Lord one thousand eight hundred and _____ .
 Witness, Y. Z., Clerk of the peace.

SCHEDULE (B).

Quarterly List of Lunatic Paupers within the District of the Union of _____ [or the Parish of _____], in the County or Borough of _____, not in any Asylum, registered Hospital, or Licensed House.

Name.	Sex.	Age.	Form of Mental Disorder.	Duration of present attack of insanity, and if idiotic, whether or not from Birth.	Resident in Workhouse.	Non-resident in Workhouse, where and with whom resident.	Date of Visit.	In what Condition and, if ever, restrained, why, and by what Means and how often.

I declare that I have personally examined the several persons whose names are specified in the above list on the days set opposite their names; and I certify, firstly, with respect to those appearing by the above list to be in the workhouse, that the accommodation in the workhouse is sufficient for their reception, and that they are all [or all except A. B. and C. D.] proper patients to be kept in the workhouse; and, secondly, with respect to those appearing by the above list to be resident elsewhere than in the workhouse, that they are [or all except A. B. and C. D.] properly taken care of, and may properly remain out of an asylum, I declare that the persons in the above list are to the best of my knowledge the only pauper

lunatics in the district of the union of [or in the
parish of] who are not in any asylum, registered
hospital, or duly licensed house.

(Signed)

A. B.

Medical officer of the district of the
union [or parish] of

Dated the day of , one thousand eight
hundred and

LUNACY ACT AMENDMENT ACT, 1865.

28 & 29, Vict., ch. 80; Chitty, Supl. 1865-68, p. 44.

379. The word "county" in "The Lunatic Asylum Act, 1853,"
and the several Acts construed as one therewith,
shall be construed to include every county of a
city or county of a town having quarter sessions
and a clerk of the peace, and no recorder.

§ 1.
Definition of word
"county" in Lu-
natic Asylum Acts.

380. The justices of every county of a city or county of a
town having quarter sessions and a clerk of the
peace, and no recorder, shall have all the powers
and authorities conferred on or given to the justices
of every borough not having any asylum by section seven of
"The Lunatic Asylum Act, 1853," notwithstanding such
county of a city or town may have an asylum of its own:
Provided always, that it shall not be obligatory on any such
county of a city or town to keep up and maintain any such
asylum from and after or during such time as it shall avail
itself of the provisions of the said section.

§ 2.
Powers of
justices of
such counties.

381. This Act shall be construed as one with "The Lunatic
Asylum Act, 1853," and several Acts construed as
one therewith, and may be cited for all purposes "The Lunacy
Act Amendment Act, 1865."

§ 3. Short title.

NAVAL DISCIPLINE ACT.

29 & 30 Vict., ch. 109; Chitty, Supl. 1865-68, p. 146.

382. If any person imprisoned by virtue of this Act shall
become insane, and a certificate to that effect shall be
given by two physicians or surgeons, the admiralty
shall, by warrant, direct the removal of such per-
son to such lunatic asylum, or other proper recep-

§ 80.
In case of in-
sanity, pris-
oners to be
removed to
some lunatic
asylum.

tacle for insane persons in the United Kingdom as they may judge proper for the unexpired term of his imprisonment; and if any such person shall in the same manner be certified to be again of sound mind, the admiralty may issue a warrant for his being removed to such prison or place of confinement as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol or house of correction shall receive him accordingly.

CRIMINAL LUNATICS ACT, 1867.

30 Vict., ch. 12; Chitty, Supl. 1865-68, p. 233.

383. This Act may be cited for all purposes as "The Criminal Lunatics Act, 1867." § 1.

384. "Criminal lunatic" shall mean for the purposes of this Act any of the persons following; that is to say,

(1) Any person for whose safe custody during her pleasure her majesty is authorised to give order: § 2.
Definition of
criminal
lunatic.

(2) Any person whom one of her majesty's principal secretaries of state is authorised by law to direct to be removed to a lunatic asylum under any Act of parliament:

(3) Any person sentenced or ordered to be kept in penal servitude who may be shown to the satisfaction of the secretary of state to be unfit from imbecility of mind for penal discipline.

385. This Act shall not apply to Scotland or Ireland. § 3.
Application of Act.

386. The enactments contained in the ninth and tenth sections of the Act of the sessions of the twenty-third and twenty-fourth years of the reign of her present majesty, chapter seventy-five, relating to the following matters: § 4.
General ap-
plication of
§§ 9 and 10 of
23 & 24
Vict., ch. 73.

(1) To the power of the secretary of state to permit a lunatic to be absent from the asylum on trial:

(2) To the expenses of conveyance and maintenance of criminal lunatics: shall apply to a criminal lunatic in whatever asylum or place of confinement he may be, and to such asylum and place of confinement, so far as regards such lunatic, in the same manner as if such asylum or place of confinement were an asylum appropriated to criminal lunatics in pursuance of the last mentioned Act.

387. It shall be lawful for one of her majesty's principal secretaries of state to discharge absolutely or conditionally any criminal lunatic. Where any criminal lunatic has been discharged conditionally, if any of the conditions of such discharge are broken, the said secretary of state may by warrant, to be executed by any constable or other peace officer to whom such warrant is delivered, direct such person to be taken into custody, and to be conveyed to the place in which he was detained at the time of his discharge, or to any other place to which he might have been removed if no order for his discharge had been given, and any person so taken into custody shall revert in all respects to the same position as he was in at the time when the order of the discharge was given, and shall be subject to be detained accordingly.

§ 5.
Power of secretary of state to give conditional order of discharge.

388. The eighth section of the said Act of the session of the twenty-third and twenty-fourth years of the reign of her present majesty, chapter seventy-five, shall be repealed, and in place thereof be it enacted; where the term of punishment awarded to any criminal lunatic confined in any asylum or other place of confinement for criminal lunatics expires before such evidence of his sanity has been given as justifies his being discharged, the following consequences shall ensue; that is to say,

§ 6.
Criminal lunatic may be removed to a county asylum on expiration of his sentence.

(1) If such lunatic be confined in any asylum or place of confinement to which lunatics may be sent in pursuance of "The Lunatic Asylums Act, 1853," he shall thenceforth be deemed to be a pauper lunatic, and shall be in the same position in all respects as if he were a lunatic who immediately previous to the expiration of his term of punishment had been found wandering at large within the parish or place where the offence was committed in respect of which he became a criminal lunatic, and had been directed by a justice, in pursuance of the sixty-eighth section of "The Lunatic Asylums Act, 1853" to be received into the said asylum or place of confinement as a lunatic wandering at large, and a proper person to be taken charge of and detained under care and treatment.

Lunatic found wandering at large, etc.

Criminal lunatic.

(2) If such lunatic be confined in any asylum or place of confinement to which lunatics cannot be sent in pursuance of

the said "Lunatic Asylums Act, 1853," the said secretary of state may, by order under his hand, direct the lunatic to be received into any asylum or place of confinement for lunatics into which a justice might have directed him to be received in pursuance of the said sixty-eighth section of "The Lunatic Asylums Act, 1853," if immediately previous to the date of the expiration of his term of punishment the lunatic had been found wandering at large within the parish or place where the offence was committed, in respect of which he became a criminal lunatic, and the justice had been satisfied that the lunatic was a proper person to be taken charge of and detained under care and treatment; and any order made by the said secretary of state in pursuance of this section shall have the same effect, and be obeyed by the same persons, and subject them to the same penalties in case of disobedience, as an order made by a justice for the reception of a lunatic into an asylum or other place of confinement for lunatics in pursuance of the said sixty-eighth section of the said "Lunatic Asylums Act, 1853;" and such lunatic when received into the said asylum or place of confinement shall thenceforth be deemed to be a pauper lunatic, and shall be in the same position in all respects as if he had been such wandering lunatic as aforesaid directed to be received into the said asylum or place of confinement in pursuance of the said order of a justice.*

Reception of lunatics into asylums.

Justice satisfied that the lunatic was a proper person to be detained and taken charge of.

POOR LAW AMENDMENT ACT, 1867.

30 & 32 Vict., ch. 106; Chitty, Supl. 1865-68, p. 272.

389. When there shall be in any workhouse a poor person suffering from mental disease, or from bodily disease of an infectious or contagious character, and the medical officer of such workhouse shall upon examination report in writing that such person is not in a proper state to leave the workhouse without danger to himself or others, the guardians may direct the master to detain such person therein, or, if the guardians be not sitting, the master of the workhouse may, until the next

§ 22.
Guardians empowered to detain indoor paupers.

* Amended; see 32 & 33 Vict., ch. 18, § 2, *infra*.

meeting of the guardians, detain him therein; and such person shall not be discharged from such workhouse until the medical officer shall in writing certify that such discharge may take place: Provided, however, that this enactment shall not prevent the removal of a lunatic to a lunatic asylum, registered hospital, or licensed house, when such removal is otherwise required by law, nor the removal of any poor person after the parent or next of kin of such person shall have given to the guardians such an undertaking as they shall deem satisfactory to provide for the removal, charge, and maintenance of such person with due care and attention while the malady continues; and this provision shall apply to every district school and district asylum, and to the managers, board of management, medical officer, superintendent, or master thereof respectively.

390. When any pauper lunatic shall be sent to an asylum from any part of a borough wholly or partly comprised within a union, which borough shall not have contributed to the erection or maintenance of that asylum, the visitors of the asylum shall, where the union and the borough are not conterminous, make out two accounts in respect of such lunatic in the asylum, one of which shall be limited to the charge which would be made in the case of a pauper lunatic sent from the county and shall be transmitted to the guardians of the said union for payment, and the other, which shall contain the extra sum by law chargeable in respect of a pauper lunatic received into the same asylum from any other county, shall be transmitted to the town council of such borough, and shall be paid by them as other charges to which the borough fund may be liable.

§ 23.
As to pauper
lunatic sent
from bor-
oughs.

Guardians of
the said
union.

POOR LAW AMENDMENT ACT, 1868.

31 & 32 Vict., ch. 122; Chitty, Supl. 1865-68, p. 432.

391. The guardians of any union or parish may, with the consent of the poor law board, send an idiot pauper to an asylum or establishment for the reception and relief of idiots maintained at the charge of the county rate or by public subscription, and they may with the like consent send any idiotic, imbecile, or insane

§ 13.
Guardians may
pay the cost of
idiots sent to
asylums for
idiots.

pauper who may lawfully be detained in a workhouse to the workhouse of any other union or parish, with the consent of the guardians of such last mentioned union or parish, and pay the cost of the maintenance, clothing, and lodging of such pauper in the asylum, establishment, or workhouse, as well as the cost of his conveyance thereto or his removal therefrom, and the expenses of his burial, when necessary.

392. The guardians of any union or parish may, with the consent of the poor law board and the commis-
sioners in lunacy, and subject to such regulations § 49. Certain lunatics may be received in workhouses from asylums. as they shall respectively prescribe, receive into the workhouse any chronic lunatic not being dangerous who may have been removed to a lunatic asylum, and selected by the superintendent of the asylum and certified by him to be fit and proper so to be removed, upon such terms as may be agreed upon between the said guardians and the committee of visitors of any such asylum, and thereupon every such lunatic, so long as he shall remain in such workhouse, shall continue a patient on the books of the asylum for and in respect of all the provisions in the Lunacy Acts, so far as they relate to lunatics removed to asylums.

CRIMINAL LUNATICS ACT, 1869.

32 & 33 Vict., ch. 78; Chitty, Supl. 1869-72, p. 573.

393. This Act may be cited as "The Criminal Lunatics Act, 1869."

394. It is hereby declared that the sixth section of "The Criminal Lunatics Act, 1867," does apply and shall be deemed to have applied from the date of the passing thereof to criminal lunatics whose terms of punishment expired before the date of the passing of such Act in the same manner, so far as circumstances admit, as if their terms of punishment had expired subsequently to the passing of such Act, * * * but no parish or place upon which any order may have been or shall be made for, or which shall be otherwise chargeable with, the maintenance of any criminal lunatic under the sixth section of the said Act shall be liable to make good or refund any sum of money which may have been theretofore expended by any other parish or place on account of the maintenance of such lunatic.

§ 1.
Short title.

§ 2.
Application of section 6 of 30 & 31 Vict., ch. 12.

DIVIDED PARISHES AND POOR LAW AMENDMENT ACT.

39 & 40 Vict., ch. 61; Chitty, Supl. 1873-76, p. 608.

395. Where any pauper shall be entitled to any annuity or periodical payment, the trustee or other person bound to make payment of the same to the pauper may from time to time pay to the board of guardians of any union or parish, out of the instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

§ 23.
Trustees may pay cost of pauper's relief out of annuity, payable to such pauper.

Where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society, and as such entitled to receive any payment, they may recover from him, as a debt, or from his executors, administrators or assigns in case of his death, the sum so expended by them as aforesaid, and the managing body of such society, after notice from the clerk to the guardians, served previously to the money being paid over, shall be required to pay the same to such guardians, and shall be exonerated on payment thereof from any further liability. Where any trustee, manager, or other person shall decline to make any payment, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so make an order upon him to pay the requisite amounts then due to the guardians at once, and to pay from time to time in future as the liability in respect of the relief arises thereafter.

Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf.

396. Where any pauper lunatic shall have been or shall hereafter be sent from any parts of a borough wholly or partly comprised within a union or parish to any licensed house or registered hospital, and the account of the charges for the maintenance of such lunatic therein shall be sent to the guardians

§ 36.
Provision for lunatics sent from boroughs to licensed houses and registered hospitals.

of the said union or parish, their clerk shall divide the said account into two parts, one of which shall contain the amount which would have been paid for such lunatic if he had been maintained in the asylum of the county wherein the said union or parish or the greater part of it is comprised, and the other shall contain the extra sum in such account, and the said guardians having paid the whole of such charges, may send the second account, together with an account of any extra expenses caused by the removal of such lunatic to the place of confinement, to the town council of the borough from which such lunatic was so sent, and such town council shall thereupon pay the amount of such accounts to the said guardians, and if the same be not paid the amount may be recovered by the said guardians by process in any court of law as a debt. This section shall not apply to any borough which has provided or contributed to the providing of a pauper lunatic asylum.

ARMY DISCIPLINE AND REGULATION ACT, 1879.

42 & 43 Vict., ch. 33; Law Rep. Stat., vol. 14, p. 166.

397. Where it appears on the trial by court martial of a person charged with an offence that such person is by § 128. reason of insanity unfit to take his trial the court shall find specially that fact; and such person shall be kept in custody in the prescribed manner until the directions of her majesty thereon are known, or until any earlier time at which such person is fit to take his trial.

Where on the trial by court martial of a person charged with an offence it appears that such person committed the offence, but that he was insane at the time of the commission thereof, the court shall find specially the fact of his insanity, and such person shall be kept in custody in the prescribed manner until the directions of her majesty thereon are known.

In either of the above cases her majesty may give orders for the safe custody of such person during her pleasure, in such place and in such manner as her majesty thinks fit.

A finding under this section shall be subject to confirmation in like manner as any other finding.

If a person imprisoned by virtue of this Act becomes insane,

then, without prejudice to any other provision for dealing with such insane prisoner, a secretary of state in any case, and in the case of a prisoner confined in India the governor-general of India, or the governor of any presidency in which the person is confined, and in the case of a prisoner confined in a colony the governor of that colony, may, upon a certificate of such insanity by two qualified medical practitioners, order the removal of such prisoner to an asylum or other proper place for the reception of insane persons, in the United Kingdom, India, or the colony, according as the prisoner is confined in the United Kingdom, India, or the colony, there to remain for the unexpired term of his imprisonment, and, upon such person being certified in the like manner to be again of sound mind, may order his removal to any prison in which he might have been confined if he had not become insane, there to undergo the remainder of such punishment.

TRIAL OF LUNATICS ACT, 1883.

46 & 47 Vict., ch. 38; Law Rep. Stat., vol. 19, p. 129.

398. This Act may be cited as the Trial of Lunatics Act, 1883.

399. (1) Where in any indictment or information any act or § 1. omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible, according to law, for his actions at the time when the act was done or omission made, then, if it appears to the jury before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid, at the time when he did or made the same, the jury shall return a special verdict to that effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

(2) Where such special verdict is found, the court shall order the accused to be kept in custody as a criminal lunatic, in such place and in such manner as the court shall direct till her majesty's pleasure shall be known; and it shall be lawful for her majesty thereupon, and from time to time, to give such order for the safe custody of the said person during pleasure, in such place and in such manner as to her majesty may seem fit.

(3) In all such cases any two justices of the peace of the county, city, or place where such person shall have been tried, or shall be kept in custody, shall have the like power as is given by the Act of the third and fourth years of her present majesty, chapter fifty-four, in the cases therein mentioned, to inquire into and ascertain the last legal settlement of such person, and also to make the like order or orders for the payment of such person's maintenance and other charges as therein mentioned.

(4) All provisions in any existing Act or in any rules or orders made in pursuance of any existing Act, having reference to a person or persons acquitted on the ground of insanity, shall apply to a person or persons in respect of whom a special verdict is found under this Act.

ONTARIO.

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PRIVATE LUNATIC ASYLUMS.

[NOTE.—Chapter 221 of the Revised Statutes of Ontario, respecting “Private Asylums,” as amended by the act of 1883, chapter 28, has been selected for insertion on account of its completeness and the absence of similar provisions in the United States. The other provinces of the Dominion of Canada have similar enactments, all being modeled after the statutes of England of 8 & 9 Victoria, chapter 100, 16 & 17 Victoria, chapter 96, and 16 & 17 Victoria, chapter 97, supra.]

1. In this act and the schedules thereto the words and expressions following shall have the several meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction, that is to say:

- (1) “County,” shall mean a county or union of counties, or a city or town having a separate commission of the peace;
- (2) “Lunatic,” shall mean every insane person, and every person being an idiot or lunatic, or of unsound mind;
- (3) “Patient,” shall mean every person received or detained as a lunatic, or taken care or charge of as a lunatic;
- (4) “Proprietor,” shall mean every person to whom any license is granted under the provisions of this act, and every person keeping, owning, or having any interest or exercising any duties or powers of a proprietor in any licensed house;

Rev. Stat.,
1877, ch. 221,
§1.
Interpreta-
tions of terms.

(5) "Clerk of the Peace," shall mean every clerk of the peace and person acting as such, and every deputy duly appointed;

(6) "Justice," shall mean a justice of the peace;

(7) "Medical Attendant," shall mean every physician who keeps any licensed house, or in his medical capacity attends any licensed house;

(8) "Physician," shall mean every person of the male sex authorized to practice medicine, surgery or midwifery in this province;

(9) "Licensed House," shall mean a house licensed under the provisions of this act.

2. In this act, and in the Revised Statute of Ontario, respecting private lunatic asylums as amended by this act,

Act of 1883,
ch. 28, § 1.
Interpretation.

(1) The word "Inspector" shall mean the inspector appointed under "The Prison and Asylum Inspection Act."

(2) "Private Asylum" shall mean a house licensed under the provisions of this act, and "House" and "Licensed House" shall include a private asylum.

3. (1) Every private asylum or house licensed under the provisions of this act, or of the said revised statute, shall be under the supervision and inspection of a board of visitors, composed of the judge (or in the case of his absence or disqualification the junior or deputy-judge) of the county court of the county wherein such private asylum is located, the warden of such county for the time being, the clerk of the peace for the county, with a local physician, who shall be appointed by the lieutenant-governor in council, and shall hold office for three years unless sooner removed by the lieutenant-governor.

Ibid § 5.
Board of
visitors.

(2) The judge shall be the chairman of the board, and the clerk of the peace shall be its secretary.

(3) The secretary shall perform the duties by the said act imposed upon the clerk of the visitors, and shall be paid for his services out of the license fees, or by the proprietors of the asylum, such allowance for his services as the lieutenant-governor in council may direct.

4. * * * * Such clerk shall summon the visitors to meet at such time and place, for the purpose of executing

R. S., ch. 221.
§ 8.

amended 1883,
ch. 28, § 6. the duties of this act, as the justices in general ses-
Summoning sions appoint.
visitors.

5. Every such appointment, summons and meeting shall be
made and held as privately as may be, and in such
manner that no proprietor, superintendent or person
interested, in or employed about or connected with
any house to be visited, has notice of such intended visitation.

Ibid § 9.
Visitors'
meetings to
be private.

6. (1) If the clerk of the visitors, at any time, desires to
employ an assistant in the execution of the duties
of his office, he shall certify such desire, and the
name of the proposed assistant to one of the visitors, being a
justice; and if such visitor approves thereof, he shall admin-
ister the following oath to such assistant:

Ibid § 13.
Assistant
clerk.

"I, A. B., do solemnly swear that I will faithfully keep se-
cret all such matters and things as come to my
knowledge in consequence of my employment as assistant to
the clerk of the visitors, appointed for the county of by
virtue of the two hundred and twenty-first chapter of the Re-
vised Statutes of Ontario, entitled 'An Act respecting Private
Lunatic Asylums,' unless required to divulge the same by
legal authority: So help me God."

(2) The clerk may thereafter, at his own cost, employ such
assistant.

7. (1) No member of the board of visitors shall be pecuniarily
interested in any private asylum, either directly or
indirectly, and any visitor who, after his appoint-
ment, becomes interested in any private asylum,
either by profits as proprietor, or by the sale of merchandise
to such an asylum, or in any other way, shall thereupon be-
come disqualified from acting, and shall not thereafter act in
such capacity.

Act of 1883,
ch. 28, § 6.
Pecuniary
interest for-
bidden.

(2) In case a judge or clerk of the peace is or becomes so
disqualified, the lieutenant-governor may appoint
some one to act in his stead; and in case a warden is or becomes
so disqualified, the county council may appoint some one to
act in his stead.

8. All duties devolving upon, or to be performed under the
provisions of the said revised statute by the visit-
ors appointed at the general sessions, shall hereafter
devolve upon and be performed by the said board of visitors.

Ibid § 7.
Duties of
visitors.

9. (1) Such visitors shall, before acting, take an oath to the following effect: "I, A. B., do swear that I will discreetly, impartially and faithfully execute all the trusts and powers committed to me by virtue of the act entitled, 'An Act respecting Private Asylums for the Insane and Inebriates,' and that I will keep secret all such matters as come to my knowledge in the execution of my office, except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of the duty imposed upon me by the said act."

*Ibid § 8.
Oath of
visitors.*

(2) Such oath may be administered by any justice of the peace to the clerk of the peace, who may then administer the same to the other members of the board.

By whom administered.

10. No physician being a visitor shall sign any certificate for the admission of any patient into any licensed house or hospital, or shall professionally attend upon any patient in any licensed house or hospital, unless he is directed to visit such patient by the person upon whose order such patient has been received into such licensed house or hospital, or by the provincial secretary, or by the chancellor or one of the vice-chancellors of the court of chancery, or by a committee appointed by them or one of them.

*R. S., ch. 221,
§ 15.
Restrictions
upon physicians.*

11. If any visitor, or clerk or assistant clerk to any visitors, after his appointment becomes so interested in any house licensed for the reception of lunatics, or in the profits of such reception, such visitor, clerk or assistant clerk, shall be disqualified from acting, and shall cease to act in such capacity.

*Ibid § 16.
Visitor becoming
interested
disqualified.*

12. If any physician, being a visitor, signs a certificate for the admission of a patient into any licensed house or hospital, or professionally attends any patient in any such house or hospital, (except as aforesaid), such physician shall for each offense forfeit the sum of two hundred dollars.

*Ibid § 17.
Penalty on
physicians.*

13. When the proprietor of a private asylum desires to obtain a license for such private asylum under the provisions of this act, he shall give notice thereof to the inspector.

*Act of 1883,
ch. 25, § 2.
Notice to
inspector.*

14. Such notice shall contain the true christian name and

R. S., ch. 221, § 19.
 Contents of. surname, place of abode, and occupation of the person to whom the license is desired to be granted, and a true and full description of his estate or interest in such house; and in case the person to whom the license is desired to be granted, does not propose to reside himself in the licensed house, the notice shall contain the true christian name and surname, place of abode and occupation of the superintendent who is to reside therein.

15. The notice shall be accompanied by a plan of the house, drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of—
 Ibid § 20.
 Plan of house.

(1) The situation thereof;

(2) The length, breadth and height of, and a reference by a figure or letter to every room and apartment therein;

(3) A statement of the quantity of land, not covered by any building, annexed to such house, and appropriated to the exclusive use, exercise and recreation of the patient proposed to [be] received therein; and

(4) Also a statement of the number of patients proposed to be received into such house, and whether the license so applied for is for the reception of male or female patients, or of both, and if for the reception of both, of the number of each sex proposed to be received in such house, and of the means by which the one sex may be kept distinct and apart from the other.

16. (1) The notice with a plan and statement as required by section 20 of the said act respecting private lunatic asylums, shall be sent to the inspector at least two weeks before such private asylum is ready for the reception of patients. * * * *

(3) The inspector shall thereupon visit such proposed private asylum and minutely inspect the same, and report thereon to the lieutenant-governor in council.
 Inspector's report.

17. If the inspector of asylums reports that the buildings and premises referred to in the said notice are ready and fit for occupation as a private asylum for the insane, the lieutenant-governor in council may issue a license to the proprietors to keep and maintain the same for the purpose of a "Private Asylum:" and such license shall continue in force until revoked by the lieutenant-governor in council.
 Ibid § 4.
 License to proprietors.

18. No such license shall be granted or renewed unless the person to whom such license is granted or renewed, enters into a bond to her majesty in the sum of four hundred dollars, with two sufficient sureties, each in the sum of two hundred dollars, or one sufficient surety in the sum of four hundred dollars, under the usual conditions for the good behavior of such person during the time for which such license is granted or renewed.

R. S., ch. 221,
§ 21.
Securities by
license.

19. Any person to whom a license is granted may remove the superintendent named in the notice, and may at any time appoint another superintendent, upon giving to the visitors of the house a notice containing the true christian name and surname, place of abode and occupation of the new superintendent.

Ibid § 24.
Superintendent,
removal
of.

20. No one license shall include or extend to more than one house; but if there is any place or building detached from a house to be licensed, but not separated therefrom by ground belonging to any other person, and if such place or building is specified, delineated and described in the notice, plan and statement hereinbefore required to be given, in the same manner in all particulars as if the same had formed part of such house, then such detached place or building may, if the justice think fit, be included in the license for the house, and if so included, shall be considered part of such house for the purpose of this act.

Ibid § 25.
One license
for one house.

21. No addition or alteration shall be made to, in or about any licensed house, or the appurtenances, unless previous notice in writing of such proposed addition or alterations, accompanied with a plan thereof, to be drawn upon the scale aforesaid, and accompanied by such description as aforesaid, has been given to the clerk of the peace, by the person to whom the license has been granted, nor unless the consent in writing of two of the visitors has been previously obtained.

Ibid § 26.
Alterations in
asylums.

22. For every license there shall be paid to the clerk of the peace, for every patient proposed to be received into such house, the sum of two dollars; and if the total amount of such sums of two dollars does not amount to sixty dollars, then so much more as together therewith will make up the sum of sixty dollars, and no such license shall be delivered until the sum payable for the same has been paid.

Ibid § 30.
Fees thereon.

23. If the period for which a license is to be granted is less than thirteen months, the justices may reduce the payment to be made on such license to any sum not less than twenty dollars.

Ibid § 31.
Licenses for
less than 13
months.

24. All moneys to be received for licenses granted by any justices under this act shall be applied by the clerk of the peace for the county towards the payment of the salary or remuneration of the clerk to the visitors for such county, and towards the payment or discharge of the costs, charges and expenses incurred by or under the authority of the same justices or visitors, in the execution of or by virtue of this act.

Ibid § 32.
Application
of fees.

25. The clerk of the peace for every county shall keep an account of all moneys received and paid by him under or by virtue of or in the execution of this act, and such account shall be made up to the last day of December in each year inclusively, and shall be signed by two at least of the visitors for the county, and every such account shall be laid by the clerk of the peace before the justices at the first general sessions in the ensuing year.

Ibid § 33.
Accounts.

26. If any person to whom a license has been granted under this act, by sickness, or other sufficient reason, becomes incapable of keeping the licensed house, or dies before the expiration of the license, any three justices for the county, of whom the chairman of the general sessions for the county shall be one,* may, by writing endorsed on such license under the hands of such three justices, transfer the license, with all the privileges and obligations annexed thereto, for the term then unexpired, to the person who at the time of such incapacity or death was the superintendent of such house, or had the care of the patient therein, or to such other person as such justices approve, and in the meantime such license shall remain in force, and have the same effect as if granted to the superintendent of the house.

Ibid § 34.
When license
assignable.

27. The transfer provided for by the thirty-fourth section of the said act may hereafter be authorized by the lieutenant-governor in council and not otherwise.

Act of 1883,
ch. 28. § 9.
Transfer.

28. In case a license has been granted to two or more per-

* But see pl. 27, *infra*.

sons, and before the expiration thereof, one or more of such persons die leaving the other or others surviving, the license shall remain in force and have the same effect as if granted to the survivor or survivors.

R. S., ch. 221,
§ 33.
Survivorship.

29. If any licensed house is pulled down or occupied under the provisions of any statute, or is by any *vis major*, or by fire, tempest or other accident, rendered unfit for the accommodation of lunatics, or if the person keeping any such house desires to transfer the patient to another house, or any two or more of the visiting justices for the county within which the new house is situate, upon the payment to the clerk of the peace of not less than four dollars may grant to the person whose house has been so pulled down, occupied or rendered unfit as aforesaid, or who desires to transfer his patient as aforesaid, leave or license to keep such other house for the reception of lunatics, for such time as the said justices think fit; but the same notice of such intended change of house, and the same plans and statements and descriptions of and as to such intended new house, shall be given as are required when application is first made for license for any house, and shall be accompanied by a statement in writing of the cause of such change of house, and except in cases in which the change of house is occasioned by fire or tempest, seven clear days, previous notice of the intended removal, shall be sent by the person to whom the license for keeping the original house was granted to the person who signed the order for the reception of each patient, or the person by whom the last payment on account of each patient had been made.

Ibid § 36.
Transfer of
patients.

30. In case a majority of the justices of any county, in general sessions assembled, resolve to recommend to the lieutenant-governor the revocation of any license granted under this act, or that the same be not renewed, such justices shall cause to be given to the person licensed, or to the resident superintendant of the licensed house, or to be left at the licensed house, seven clear days, previous notice in writing of the intended recommendations.

Ibid § 37.
Revocation of
license.

31. Upon the receipt of such recommendation the lieutenant-governor, by an instrument under his hand and seal, may revoke or prohibit the renewal of such license; and in the case of a revocation, the same shall take ef-

Ibid § 38.
License when
revoked.

fect at a period to be named in the instrument, not exceeding two months from the time a copy or notice thereof has been published in the Ontario Gazette.

32. A copy or notice of the instrument of revocation shall be transmitted to the person licensed or to the resident superintendent of, or be left at, the licensed house, after which the same shall be published in the Ontario Gazette.

33. No person, whether being or represented to be a lunatic, or only a boarder or lodger, in respect of whom any money received or agreed to be received for board, lodging or any other accommodation, shall be received into or detained in any licensed house without an order under the hand of some person according to the form, and stating the particulars mentioned in schedule B, nor without the medical certificates, according to the form of schedule C, of two physicians not being partners or brothers, or father and son, and each of whom separately from the other had personally examined the person to whom it relates not more than seven clear days previous to the reception of such person into such house, and each of whom signed and dated the certificate on the day on which such person was so examined.

34. Every physician who signs any such certificate shall specify therein the fact or facts (whether arising from his own observation or from the information of any other person) upon which he has formed his opinion that the person to whom such certificate relates is a lunatic, or an insane person, or an idiot, or a person of unsound mind.

35. No person shall receive to board or lodge in any house not licensed under this act, or take the charge or care of any insane person without having first obtained the medical certificate required by this act for the admission of an insane person into a licensed house.

36. Every person who receives to board or lodge in any house not licensed under this act, or takes the care or charge of any insane person, shall within three months next after receiving such insane person into his house, or under his care, transmit to the clerk of the visitors of the county a copy of such medical certificates, sealed and endorsed "Private Returns," and every such person shall also (if

*Ibid § 39.
Notice of re-
vocation.*

*Ibid § 40.
Orders for ad-
mission; med-
ical certificate.*

*Ibid § 41.
Facts to be
certified.*

*Ibid § 42.
Lunatics not
received with-
out medical
certificates.*

*Ibid § 43.
Notice sent to
clerk of vis-
itors.*

the insane person continues in his house or under his care) on the first day of January, of every year, or within seven clear days thereafter, transmit to such clerk a certificate, signed by two physicians, describing the then actual state of mind of such insane person and endorsed "Private Returns," and all such private returns shall be preserved by the said clerk, and shall be open to the inspection of the visitors only.

37. Any person may, under special circumstances, be received into any such house, upon such order with the certificate of one physician alone, provided the order states the special circumstances which prevented the person from being examined by two physicians; but in every such case another certificate shall be signed by some other physician, not connected with any house licensed as aforesaid, and who has specially examined such person within three days after his reception into such house.

Ibid § 44.
When certificate of one physician sufficient.

38. No physician who, or whose father, brother, son or partner, is wholly or partly the proprietor of or a regular professional attendant in a licensed house, shall sign any certificate for the reception of a patient into such house; and no physician who, or whose father, brother, son or partner, signs the order hereinbefore required for the reception of a patient, shall sign any certificate for the reception of the same patient.

Ibid § 45.
When physicians not allowed to certify.

39. Every proprietor or superintendent who receives any patient into any licensed house, shall, within two days after the reception of such patient, make an entry with respect to such patient in a book to be kept for that purpose, to be called "The Book of Admissions," according to the form and containing the particulars required in schedule D, so far as he can ascertain the same, except as to the form of the mental disorder, and except, also, as to the discharge or death of the patient, which shall be made when the same happens; and every person who so receives any such patient and does not, within two days thereafter, make such entry (except as aforesaid), shall forfeit a sum not exceeding ten dollars.

Ibid § 46.
Books to be kept, and entries made therein.

40. The form of the mental disorder of every patient received into any licensed house, shall, within seven days after the reception, be entered in the said

Ibid § 47.
Form of insanity.

"Book of Admissions" by the medical attendant of the house; and every medical attendant who omits to make any such entry within the time aforesaid shall for every such omission, forfeit a sum not exceeding ten dollars.

41. The proprietor or resident superintendent of every licensed house, shall, after two clear days, and before the expiration of seven clear days from the day on which any patient has been received into the house, transmit to the clerk of the visitors within whose jurisdiction the house is situate, a copy of the order and medical certificate or certificate on which the patient has been received, and also, a notice and statement according to the form of schedule E.

*Ibid § 48.
Copy of order
sent to clerk
of visitors.*

42. When a patient has escaped from a licensed house, the proprietor or superintendent of such house shall, within two clear days next after the escape, transmit a written notice thereof to the clerk of the visitors within whose jurisdiction such house is situate; and the notice shall state the christian name and surname of the patient who so escaped, and his or her then state of mind, and also the circumstances connected with the escape; and if the patient is brought back to such house, the proprietor or resident superintendent shall within two clear days after the patient has been brought back, transmit a written notice thereof to the clerk of the visitors; and the notice shall state when the patient was so brought back, and the circumstances connected therewith, and whether with or without a fresh order and certificates or certificate; and every proprietor or resident superintendent omitting to transmit such notice, whether of escape or of return, shall, for every such omission, forfeit a sum of forty dollars.

*Ibid § 49.
Escapes.*

43. When a patient is removed or discharged from a licensed house, or dies therein, the proprietor or superintendent of the house shall, within two clear days next after such removal, discharge or death, make an entry thereof in a book to be kept for that purpose, according to the form and stating the particulars in schedule F to this act, and shall also within the same two days transmit a written notice thereof, and also of the cause of the death, removal or discharge of the patient, if known, to the clerk of the visitors in whose jurisdiction the house is situate, according to the form, and containing the particulars in schedule G to this act.

*Ibid § 50.
Removal and
discharge
recorded*

44. In case of the death of a patient in a licensed house, a statement of the cause of the death of the patient, with the name of any person present at the death, shall be forthwith drawn up and signed by the medical attendant of the house, and a copy thereof, duly certified by the proprietor or superintendent of such house, shall, within forty-eight hours after the death of the patient, be by such proprietor or superintendent transmitted to the nearest coroner, and also to the clerk of the visitors, in whose jurisdiction the house is situate, and also to the person who signed the order for the patient's confinement, or if such person is dead or absent from the province, then to the person who made the last payment on account of the patient, and every medical attendant, proprietor or superintendent who neglects or omits to draw up, sign, certify, or transmit such statement as aforesaid, shall, for every such neglect or omission, forfeit and pay a sum of not exceeding two hundred dollars.

45. In case any person released from confinement in any licensed house considers himself to have been unjustly confined, the clerk of the visitors, within whose jurisdiction the house is situate shall at his request, furnish to him, or to his attorney, without fee or reward a copy of the certificates and order upon which he has been confined; and the lieutenant-governor may cause to be prosecuted on the part of the crown, any person who has been concerned in the unlawful taking of any of her majesty's subjects as an insane patient, and likewise any person who has been concerned in the neglect or ill-treatment of any patient or persons so confined.

46. In every house licensed for one hundred patients or more, there shall be a resident physician as the superintendent or medical attendant thereof; and every house licensed for less than one hundred, and more than fifty patients, (in case such house is not kept by, or has not a resident physician) shall be visited daily by a physician, and every house licensed for less than fifty patients (in case such house is not kept by, or has not a resident physician) shall be visited twice in every week by a physician; but the visitors of any house may direct that such house shall be visited by a physician at any other time or times, not being oftener than once in every day.

*Ibid § 51.
Certificate in
case of death.*

*Ibid § 52.
Remedy of
persons ille-
gally confined.*

*Ibid § 53.
When there
shall be an
attendant phy-
sician daily.*

47. Where any house is licensed to receive less than eleven lunatics, any two of the visitors of such house, if they respectively think fit, may, by writing under their hands, permit the house to be visited by a physician at such intervals more distant than twice every week, as such visitors appoint, but not at a greater interval than once in every two weeks.

*Ibid § 54.
When a physician to visit, if less than eleven lunatics.*

48. Every physician, in case there is only one, keeping or residing in or visiting any licensed house, and in case there are two or more physicians keeping or residing in or visiting any licensed house, then one at least of such physicians, shall once in every week (or, in the case of any house at which visits at more distant intervals than once a week are permitted then shall on every visit), enter and sign in a book to be kept at such house for that purpose, to be called "The Medical Visitation Book," a report showing:

*Ibid § 55.
Entries made in "The Medical Visiting Book."*

- (1) The date thereof;
- (2) The number, sex, and state of health of all patients then in the house;
- (3) The christian name and surname of every patient who has been under restraint, or in seclusion, or under medical treatment, since the date of the last preceding report;
- (4) The condition of the house, and every death, injury and act of violence which has happened to, or affected any patient since the then last preceding report, according to the form in schedule J, and every such physician who omits to enter or sign such report, shall for every such omission, forfeit and pay the sum of eighty dollars.

49. There shall be kept in every licensed house, a book to be called "The Case Book," in which the physician keeping or residing in or visiting such house, shall from time to time make entries of the mental state and bodily condition of each patient, together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder, and the visitors within whose jurisdiction any licensed house is situate, may, whenever they see fit, by an order in writing, require the physician keeping or residing in or visiting such house, to transmit to them a correct copy of the entries or entry in the case book kept under the provi-

*Ibid § 56.
Case books; entries.*

sions of this act relative to the care of any lunatic who is or has been confined in such house, and every physician who neglects to keep the said case book, or to enter therein the particulars of each patient's case, or to transmit a copy of any entry therein pursuant to any such order, shall for every such neglect forfeit a sum not exceeding forty dollars.

50. Every licensed house within the jurisdiction of any visitors appointed, under the act, shall be visited by two at least of the said visitors (one of whom shall be a physician), four times at the least in every year, on such days and at such hours in the day, and for such length of time as the justices by whom the house has been licensed direct.

*Ibid § 57.
Visitors for
licensed
houses.*

51. The visitors, when visiting any such house, shall inspect every part of the house, outhouse, place and building communicating therewith, or detached therefrom, but not separated by ground belonging to any other person; and every part of the ground and appurtenances held, used or occupied therewith, and shall see every patient then confined therein, and shall inquire whether any patient is under restraint, and why, and shall inspect the order and certificates or certificate for the reception of every patient who has been received into such house since the last visit of the visitors, and shall enter in the visitors' book a minute:

*Ibid § 58.
Duties of in
making visits.*

(1) Of the then condition of the house, and of the patients therein;

(2) The number of patients under restraint, with the reasons thereof as stated;

(3) Such irregularity (if any) as exists in any such order or certificate;

(4) Whether the previous suggestions (if any) of the visitors, have or have not been attended to; and

(5) Any observations which they deem proper as to any of the matters aforesaid, or otherwise.

52. The proprietor or superintendent of every licensed house shall show to the visitors visiting the same, every part thereof and every person detained therein as a lunatic.

*Ibid § 59.
Facilities for
inspection.*

53. The visitors upon their several visitations to a licensed house, shall inquire:

*Ibid § 60.
Inquiries.*

(1) Where divine service is performed therein, to what number of the patients, and the effect thereof;

(2) What occupations or amusements are provided for the patients, and the result thereof;

(3) Whether there has been adopted any system of non-coercion, and if so, the result thereof;

(4) As to the classification of patients;

(5) And such other inquiries as to such visitors seem expedient.

54. Upon every visit of the visitors to any licensed house, Ibid § 61. Information to visitors. there shall be laid before such visitors by the proprietor or superintendent of the house:

(1) A list of all the patients then in the house (distinguishing males from females, and specifying such as are deemed curable);

(2) The several books by this act required to be kept by the proprietor or superintendent, and by the medical attendant of a licensed house;

(3) All orders and certificates relating to patients admitted since the visitation of the visitors;

(4) The license then in force for such house;

(5) All such other orders, certificates, documents and papers relating to any of the patients at any time received into such house, as the visitors from time to time require to be produced to them; and the visitors shall sign the said books as having been so produced.

55. There shall be hung up in some conspicuous part of Ibid § 62. Information to be hung up in every licensed house. every licensed house a copy of the plan given to the justices on applying for the license for such house; and there shall be kept in every such house a queen's printer's copy of this act, bound in a book to be called "The Visitors' Book," and the visitors shall at the time of their visitation enter in such book the result of the inspections and inquiries hereinbefore directed or authorized to be made by them, with such observations (if any) as they think proper; and there shall also be kept in every such house a book to be called "The Patients' Book," and the visitors shall, at the times of their visitations, enter therein such observations as they think fit respecting the state of mind or body of any patient in such house.

56. The proprietor or resident superintendent of every licensed house shall, within three days after every visit by the visitors, transmit to the clerk of the visitors a true and perfect copy of the entries made by them in the "Visitors' Book," "The Patients' Book," and "The Medical Visitation Book," respectively, distinguishing the entries in the several books.

*Ibid § 63.
Copies of en-
tries sent to
clerk.*

57. The copies so transmitted to the clerk of the visitors of all such entries, relating to any licensed house, and made since the grant or last renewal of the license thereof, shall be laid before the justices, on taking into consideration the renewal of the license to the house to which such entries relate.

*Ibid § 64.
Entries sub-
mitted to
Justices.*

58. Every proprietor or superintendent who omits to transmit to the clerk of the visitors a true and perfect copy of every such entry, shall, for every omission, forfeit a sum not exceeding forty dollars.

*Ibid § 65.
Penalty for
omitting.*

59. Any two visitors may visit and inspect any licensed house within their jurisdiction at such hour of the night as they think fit.

*Ibid § 66.
Nocturnal
visits.*

60. In case the person who signed the order on which a patient has been received into a licensed house, by writing, under his hand, direct such patient to be removed or discharged, such patient shall forthwith be removed or discharged accordingly.

*Ibid § 67.
Order for
discharge.*

61. If the person who signed the order upon which a patient has been received into a licensed house is incapable by reason of insanity or absence from the province, or otherwise, of giving an order for the discharge or removal of such patient, or if such person is dead, then, the husband or wife of such patient, or if there be no such husband or wife, the father of such patient, or if there be no father, the mother of such patient, or if there be no mother, then any one of the nearest of kin for the time being of such patient, or the person who made the last payment on account of such patient, may, by writing under his or her hand, give such direction for the discharge or removal of the patient, and thereupon such patient shall be forthwith discharged or removed accordingly.

*Ibid § 68.
If person who
signed the
order becomes
incapable.*

62. No patient shall be discharged or removed from any

Ibid § 69.
Physician in
charge ob-
jects. licensed house under any of the powers hereinbefore contained, if the physician by whom the same is kept, or who is the regular medical attendant thereof, by writing under his hand, certifies that in his opinion such patient is dangerous and unfit to be at large, together, with the grounds on which such opinion is founded, unless the visitors of such house, after such certificate has been produced to them, give their consent, in writing, to the discharge or removal of such patient.

Ibid § 70.
Transfer. 63. Nothing herein contained shall prevent any patient from being transferred from one licensed house to another licensed house, or to any asylum for the insane, but in such case every such patient shall, for the purpose of such removal, be placed under the control of an attendant belonging to the licensed house to or from which he is about to be removed, and shall remain under such control until the removal has been duly effected.

Ibid § 71.
Special visit. 64. Any two or more of the visitors of any licensed house, of whom one shall be a physician, may make special visits to any patient detained in such house, on such days and at such hours as they think fit, and if after two distinct and separate visits made by the same visitors it appears to them that the patient is detained without sufficient cause, they may order his discharge and the patient shall be discharged accordingly.

Ibid § 72.
Orders, when
signed. 65. Every order by visitors for the discharge of a patient from a licensed house shall be signed by them, and they shall not order the discharge of a patient from any such house without having previously examined the medical attendant of the house if he tenders himself for that purpose as to his opinion respecting the fitness of the patient to be discharged.

Ibid § 73.
Objections by
physician. 66. If the visitors, after examining the medical attendant, discharge a patient, and the medical attendant furnishes them with a statement in writing, containing his reason against the discharge of such patient, they shall forthwith transmit such statement to the clerk of the visitors, to be kept and registered in a book for that purpose.

Ibid § 74.
Time between
special visits. 67. Not less than seven days shall intervene between the first and second of such special visits, and the visitors shall seven days previously to the second of such

special visits give notice thereof, either by post, or by an entry in "The Patient Book," to the proprietor or superinteneent of the licensed house in which the patient intended to be visited is detained, and such proprietor or superintendent shall forthwith, if possible, transmit by post a copy of such notice to the person by whose authority such patient has been received into such house, or by whom the last payment on account of such patient was made and also to the clerk of the visitors of the house.

68. None of the powers of discharge hereinbefore contained, shall extend to any lunatic confined under an order or authority of the lieutenant-governor, or under the order of any court of criminal jurisdiction.

*Ibid § 75.
Discharge.*

69. If any person applies to a visitor to be informed whether any particular person is confined in a licensed house within the jurisdiction of such visitor, the visitor, if he thinks it reasonable to permit such inquiry to be made, shall sign an order to the clerk of the visitors, and the clerk shall, on receipt of such order, and on payment to him of a sum not exceeding twenty cents for his trouble, make search amongst the returns made to him in pursuance of this act, whether the person inquired after is, or, within the then last twelve months, has been confined in any licensed house within the jurisdiction of such visitor; and if it appears that such person is or has been so confined, the clerk shall deliver to the person applying a statement in writing, specifying:

*Ibid § 76.
Information
respecting in-
dividuals de-
tained as lu-
natics.*

(1) The situation of the house in which the person so inquired after appears to be or to have been confined;

(2) The name of the proprietor or resident superintendent thereof;

(3) The date of the admission of such person into such licensed house; and

(4) (In case of his having been removed or discharged) the date of his removal or discharge therefrom.

70. Any one of the visitors of a licensed house may, at any time, give an order in writing under his hand for the admission to any patient confined in such house, of any relation or friend of such patient or of any medical or other person whom any relation or friend of the patient desires to be admitted to him.

*Ibid § 77.
Admission of
relatives.*

71. Such order of admission may be either for a single admission, or for an admission for any limited number of times, or for admission generally at all reasonable times, and either with or without restriction as to such admission or admissions being in the presence of a keeper or not, or otherwise.

*Ibid § 78.
Extent of
such order.*

72. If the proprietor or superintendent of any such house refuses admission to, or prevents or obstructs the admission to any patient, of any relation, friend or other person who produces such order of admission, he shall for every such refusal, prevention or obstruction, forfeit a sum not exceeding eighty dollars.

*Ibid § 79.
Penalty for
refusing ad-
mission.*

73. The proprietor or superintendent of any licensed house, with the consent in writing of any two of the visitors of such house, may send or take, under proper control, any patient to any specified place for any definite time for the benefit of his health; but before such consent is given by any visitors, the approval in writing of the person who signed the order for the reception of the patient, or by whom the last payment on account of such patient has been made, shall be produced to such visitors, unless they, on cause shown, dispense with the same.

*Ibid § 80.
Leave of
absence.*

74. In every case in which a patient under any of the powers or provisions of this act, is removed temporarily from the licensed house into which the order for his reception has been given, or is transferred from such house into any new house, and also in every case in which any patient has escaped from any such house and has been retaken within fourteen days next after such escape, the certificate or certificates relating to and the original order for the reception of such patient shall respectively remain in force, in the same manner as the same would have done if such patient had not been so removed or transferred, or had not so escaped and been retaken.

*Ibid § 81.
Circumstance
affecting orig-
inal order.*

75. Every proprietor or superintendent of a licensed house, who receives a proper order in pursuance of this act, accompanied with the required medical certificates or certificate for the reception or taking care of any person as a lunatic, and the assistants and servants of such proprietor or superintendent, may take charge

*Ibid § 82.
Persons
licensed au-
thorized to
receive
patient.*

of, receive and detain such patient until he dies or is removed or discharged by due authority; and in case of the escape of the patient, may retake him at any time within fourteen days after he escape, and again detain him as aforesaid.

76. The visitors of any licensed house, or any two of such visitors, may, from time to time, by summons under their hands and seals (according to the form in schedule H, or as near thereto as the case permits), require any person to appear before them to testify, on oath, the truth touching any matters respecting which such visitors are by this act authorized to inquire (which oath they are hereby empowered to administer); and every person who does not appear before such visitors pursuant to such summons, or does not assign some reasonable excuse for not appearing, or appears and refuses to be sworn or examined, shall, on being convicted thereof before one of her majesty's justices for the county, forfeit a sum not exceeding two hundred dollars for every such neglect or refusal.

Ibid § 83.
Attendance of
witnesses.

77. Any visitors who summon a person to appear and give evidence as aforesaid, may direct the clerk of such visitors to pay to such person all reasonable expenses of his appearance and attendance, in pursuance of the summons; the same to be considered as expenses incurred by the visitors in the execution of this act, and to be taken into account and paid accordingly.

Ibid § 84.
Expenses,
how paid.

78. Every complaint or information of or for any offense against this act, where any pecuniary penalty is imposed may be made before one justice.

Ibid § 85.
Complaints.

79. When any person is charged upon oath, before a justice, for any offense against this act, such justice may summon the person charged to appear at a time and place to be named in the summons, and if he does not appear then upon proof of due service of the summons (either personally or by leaving the same at his last or usual place of abode), any two justices may either proceed to hear and determine the case, or may issue their warrant for apprehending such person and bringing him before any two justices.

Ibid § 86.
Powers of
justice.

80. Any two justices upon the appearing of such person, pursuant to the summons, or upon such person being apprehended under a warrant, or upon the non-

Ibid § 87.
Decision of
justice.

appearance of such person, shall hear the matter of every such complaint or information and make such determination thereon as the justices think proper.

81. Upon conviction of any person, such justices may, if they think fit, reduce the amount of the penalty by this act imposed for the offense, to any sum not less than one-fourth of the amount thereof, and shall issue a warrant under their hands and seals for levying such penalty, or reduced penalty, and all costs and charges of the summons, warrant and hearing, and all incidental costs and charges, by distress and sale of the goods and chattels of the person convicted.

Ibid § 88.
Penalties re-
duced; how
levied.

82. Such two justices may order any person so convicted to be detained and kept in the custody of any constable or other peace officer until return can be conveniently made to such warrant of distress, unless the offender gives security by way of recognizance or otherwise to the satisfaction of such justices, for his appearance before them on such day as they appoint for the return of the warrant of distress; such day not being more than seven days from the time of taking such security.

Ibid § 89.
Detention of
defendant.

83. If, upon the return of the warrant of distress, it appears that no sufficient distress can be had whereupon to levy the penalty or reduced penalty, and the costs and charges, and if the same are not forthwith paid, or in case it appears to the satisfaction of such justices, either by the confession of the offender or otherwise, that the offender has not sufficient goods and chattels whereupon the penalty or reduced penalty, costs and charges can be levied, such justices shall, by warrant under their hands and seals, commit the offender to the common gaol or house of correction of the county, as the case may be, for any term not exceeding three months, unless such penalty or reduced penalty, costs and charges, are sooner paid.

Ibid § 90.
If no sufficient
distress.

84. All penalties and reduced penalties, when recovered shall be paid to the clerk of the peace for the county in which the offense was committed, to be by him applied and accounted for as hereinbefore directed with respect to moneys received for licenses granted by the justices of such county; and the overplus (if any) arising from such distress and sale, after payment of the penalty or reduced

Ibid § 91.
Penalties, how
disposed of.

penalty, and all costs and charges as aforesaid, shall be paid, upon demand, to the owner of the goods and chattels so distrained.

85. The justices before whom any person is convicted of any offense against this act for which a pecuniary ^{Ibid § 92.} penalty is imposed, may cause the conviction to be ^{Form of conviction.} drawn up in the following form, or in any other form to the same effect, as the case may require; and no conviction under this act shall be void through want of form:

"Be it remembered, that on the day of , in the year of our Lord at , in the county of , A. B. was convicted before us, of her majesty's justices of the peace for the said county, for that he the said did and we the said adjudge the said for his said offense to pay the sum of ."

86. Any person who thinks himself aggrieved by the order or determination of any justices under this act, may, ^{Ibid § 93.} within four months after such order made or given, ^{Appeals.} appeal to the justices at general sessions; the person appealing having first given at least fourteen clear days' notice in writing of the appeal, and the nature and matter thereof, to the person appealed against, and forthwith after such notice entering into a recognizance before some justice, with two sufficient sureties, conditioned to try such appeal and to abide the order and award of the said court thereupon.

87. The justices at general sessions, upon the proof of such notice and recognizance having been given and entered into, shall, in a summary way, hear and determine the appeal, or if they think proper, may ad- ^{Ibid § 94.} ^{Justices in general sessions.} journ the hearing thereof until the next general sessions, and if they see cause, may mitigate any penalty to not less than one-fourth of the amount imposed by this act, and may order any money to be returned which has been levied in pursuance of the order or determination appealed against, and may also award such further satisfaction to the party injured, or such costs to either of the parties as they judge reasonable and proper; and all such determinations of the said justices at general sessions shall be final, and conclusive upon all parties to all intents and purposes whatsoever.

88. If any action or suit is brought against any person for

Ibid § 95.
Limitation of
actions. anything done in pursuance of this act, the same shall be commenced within twelve months next after the release of the party bringing the action, and shall be laid or brought in the county where the cause of action arose, and not elsewhere.

Ibid § 96.
Defendants
may plead
general issue. 89. The defendant in every such action or suit may, at his election, plead specially or plead the general issue not guilty, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if the same appears to have been so done, or if it appears that such action or suit has been brought in any other county than where the cause of action arose, or was not commenced within the time hereinbefore limited for bringing the same, then the judge or jury (as the case may be) shall find a verdict for the defendants; and upon a verdict being so found, or if the plaintiff is non-suited or discontinues his action or suit after the defendant has appeared, or if upon demurrer judgment is given against the plaintiff, then the defendant shall recover double costs, and have such remedy for recovering the same as any defendant has in other cases by law.

Ibid § 97.
Defense in
case of prose-
cution. 90. In every writ, action and other proceeding preferred or brought against any proprietor or superintendent, or against assistant or servant of any proprietor or superintendent, for taking, confining, detaining, or retaking any person as a lunatic, the party complained of may plead in defense the order and certificates or certificate hereinbefore mentioned, and such order and certificates or certificate shall, as respects such party, be a justification for taking, confining, detaining or retaking the lunatic or alleged lunatic.

Ibid § 98.
When clerk
of the visitors
to prosecute. 91. The clerk of any visitors may, on their order, prosecute any person for any offense against the provisions of this act committed within the jurisdiction of such visitors, and may sue for and recover any penalty to which any person within jurisdiction of the visitors is made liable by this act.

Ibid § 99.
Penalties,
disposition of. 92. All penalties sued for and recovered by any such clerk shall be paid to him, and shall be by him paid to the clerk of the peace for the county, and the

clerk of the peace shall apply and account for the same as hereinbefore enacted with respect to moneys received for licenses by clerks of the peace.

93. No one shall prosecute any person for any offense against the provisions of this act, or sue for any penalty to which any person is made liable by this act, except by order of visitors having jurisdiction in the place where the cause of prosecution has arisen or the penalty has been incurred, or with the consent of her majesty's attorney-general for Ontario.

*Ibid § 100.
Order of visitors necessary to authorize suits.*

94. In case any person is proceeded against for omitting to transmit or send any copy, list, notice, statement or other document hereinbefore required to be transmitted by such person, and such person proves by the testimony of one person upon oath, that the copy, list, notice, statement, or other document in respect of which such proceeding has been taken was put into the proper post-office in due time or (in case of documents required to be transmitted to a clerk of the peace), left at the office of such clerk of the peace, and was properly addressed, such proof shall be a bar to all further proceedings in respect of such omission.

*Ibid § 101.
What to be sufficient proof of compliance.*

95. The costs, charges and expenses incurred by or under the order of any visitors, shall be paid by the clerk of the peace for the county, and be included by him in the account of receipts and payments hereinbefore directed to be kept by him.

*Ibid § 102.
Costs.*

96. (1) Sections 13, 14, 15, 18, 19, 20, 21, 22, 23, 24 and 25, of the act passed in the thirty-sixth year of her majesty's reign, entitled, "An Act to provide for the establishment of an Hospital for the reclamation and cure of Habitual Drunkards," shall apply to a private asylum established under this act, if the license granted so direct, and in applying the said act, every private asylum so authorized shall be an hospital within the meaning of such act, and the superintendent of such asylum shall have the powers and duties of the superintendent of an hospital for inebriates.

*Act of 1883, ch. 28, § 10.
Provisions of 36 Vict., ch. 33, to apply to private asylum.*

(2) The twelfth section of the said last mentioned act shall not extend to any such private asylum, but the said other hereinbefore mentioned sections of such act shall hereafter apply to females as well as males.

97. The provisions in the said last mentioned act respecting the voluntary admission of inebriates shall extend to any person, whether male or female, who is an habitual consumer of stimulating or narcotic drugs to such excess as to cause mental or physical derangement or disease.*

Ibid § 11.
Provisions as
to voluntary
admission.

98. The inspector, whenever required to do so by the lieutenant-governor, and at least once in the year, shall visit, examine and report to him upon the state and management of every private lunatic asylum established under the provision of the act respecting private lunatic asylums, and upon the condition of its inmates, and the lieutenant-governor, after the receipt of any such report of the inspector, may, by any instrument under his hand and seal, suspend or revoke the license granted under the said act.

R. S., ch. 224,
§ 15.
Report on pri-
vate lunatic
asylums; re-
vocation of
license.

SCHEDULE "B."—SECTION 40.

Order for the Reception of a Patient.

I, the undersigned, hereby request you to receive A. B., a lunatic (or, an insane person, or, an idiot, or, a person of unsound mind) as a patient into your house.

(Signed,)

Name.

Occupation (if any), place of abode, degree of relationship (if any), or other circumstances of connection with the patient.

1. Name of patient, with christian name at length.
2. Sex and age.
3. Married, single, or widowed.
4. Condition of life and previous occupation (if any).
5. Previous place of abode.
6. Religious persuasion, so far as known.
7. Duration of existing attack.
8. Whether first attack.
9. Age (if known) on first attack.

* Sections 2, 3, 4, 5, 6, 7, 10, 11, 12, 14, 18, 21, 22, 27, 28 and 29 of ch. 221, R. S., including schedule A, were repealed by the above cited act of 1883, ch. 28.

10. Whether subject to epilepsy.
 11. Whether suicidal or dangerous to others.
 12. Previous place of confinement (if any).
 13. Whether found lunatic by commission, and date of commission.
 14. Special circumstances (if any) preventing the patient being examined, before admission, separately by two physicians.
 15. Special circumstances (if any) preventing the insertion of any of the above particulars.
- Dated this day of , one thousand eight hundred and

(Signed,) Name.
 To
 Proprietor (or, Superintendent) of
 (Describing house by situation and
 name, if any.)

SCHEDULE "C."—(SECTION 40.)

Form of Medical Certificate.

I, being a physician duly authorized to practice as such, hereby certify that I have this day, separately from any other medical practitioner, visited and personally examined A.B., the person named in the accompanying statement and order, and that the said A.B. is a lunatic, (or an insane person, or an idiot or a person of unsound mind,) and a proper person to be confined, and that I have formed this opinion from the following fact (or facts), viz.:

(Signed,) Name.
 Place of abode.

Dated this day of , one thousand eight hundred and

SCHEDULE "D."—(SECTION 46.)

Registry of Admissions—Register of Patients.

[See Schedule (E), p. 893, *supra*.]

SCHEDULE "E."—(SECTION 48.)

Notice of Admission.

I hereby give you notice, that A.B. was received into this house as a patient, on the day of , and I hereby transmit a copy of the order and medical certificates (or certificate) on which he was received. Subjoined is a statement with respect to the mental and bodily condition of the above-named patient.

(Signed,) Name.

Superintendent (or Proprietor) of

Dated this day of , one thousand eight hundred and .

STATEMENT.

I have this day seen and personally examined A.B., the patient named in the above notice, and hereby certify that, with respect to mental state, he (or she) , and that, with respect of bodily health and condition, he (or she) .

(Signed) Name.

Medical Proprietor (or Superintendent,
ent, or Attendant) of

Dated this day of , one thousand eight hundred and .

SCHEDULE "F."—(SECTION 50.)

Register of Discharges and Deaths.

[See Schedule (G. 1.), p. 894 supra.]

SCHEDULE "G."—(SECTION 50.)

Form of Notice of Discharge or Death.

I hereby give notice that a patient received into this house on the day of was discharged therefrom, recovered (or relieved, or not improved therefrom or was re-

move) by the authority of (or died therein) on the
day of

(Signed), Name.
Superintendent (or Proprietor) of house, at
Dated this day of one thousand and eight
hundred and

In case of death, add — and I further certify that A. B.
was present at the death of the said , and that the ap-
parent cause of the death of the said (ascertained by
post-mortem examination, if so) was

SCHEDULE "H."—(SECTION 83.)

Form of Summons

We, whose names are hereunto set and seals affixed, being
two of the visitors appointed under or by virtue of chapter two
hundred and twenty-one of the Revised Statutes of Ontario re-
specting private lunatic asylums, do hereby summon and re-
quire you personally to appear before us at , in
on the day of , at the hour of
in the noon of the same day, and then and there to be
examined, and to testify the truth touching certain matters
relating to the execution of the said act.

Given under our hands and seals, this day of
in the year of our Lord one thousand eight hundred and .

FRANCE.

LAW OF JUNE 30TH, 1838.

TITLE I.—CONCERNING INSANE ASYLUMS.

Article 1. Every department must have a public establishment designed to receive and treat the insane; or, if not, must make an agreement with a public or private institution of the same or another department. The arrangements made with such establishments must be approved by the minister of the interior.

Article 2. The public establishments for the insane are placed under the supervision of public authority.

Article 3. The private establishments for the insane are placed under the supervision of public authority.

Article 4. The prefect and the persons specially selected by him or by the minister of the interior, the president of the court, procurator of the king, the justices of the peace, or the mayor of the communities, shall visit the public and the private insane asylums. They shall receive the declarations of the persons, and shall inform themselves of their conditions. The private establishments shall be visited at irregular intervals, once at least in three months, by the procurator of the king. The public establishments shall be visited in the same manner at least once in six months.

Article 5. No one shall conduct or establish a private insane asylum without the authority of the government. The private establishments intended for the treatment of other diseases are permitted to receive the insane, only, when they can

be placed entirely by themselves. These establishments must be especially authorized by the government to do so, and shall be subject, as far as the insane are concerned, to all the regulations, which the law presents.

Article 6. Administrative regulations will determine the conditions to which the authorization of the preceding articles are subject, the cases where they can be retracted and the obligations to which the authorized establishments are subject.

Article 7. The interior regulations of the establishments for the insane, shall be submitted to the approval of the minister of the interior.

TITLE II.—HOW TO PLACE THE INSANE IN THE ASYLUMS.

Section 1.—Commitment by Friends or Relatives.

Article 8. The chiefs or the responsible directors of the public asylums, and the directors of the private asylums may receive a person of diseased mind only, when there is laid before them:

(1) The written request for admission, containing the names, profession, age, and domicile of the person who makes the request, and of the person to be received; stating also the degree of relationship, between both parties. The requests for admission must be written and signed by the one who makes it, and if he cannot write, it shall be made out by the mayor or the commissioner of police. The chiefs or directors must assure themselves, on their own responsibility, of the identity of the person who makes the request, when this request has not been received by the mayor or commissioner of police. If the request for admission is made by the guardian of an irresponsible person, he must furnish a written extract of the sentence of irresponsibility that has been pronounced concerning his ward.

(2) A physician's certificate stating the mental condition of the person to be placed in the asylum, indicating the particulars of his malady and the necessity of treating and retaining him in an insane asylum. This certificate shall not be received, if it has been delivered to the directors more than two weeks before the reception of the patient, or if it has been signed by a physician attached to the asylum, or if the physician who signed it is related, in the first or second degree, to

the chiefs or owners of the establishment, or to the person who asks for the admission of the patient. In cases of emergency the chiefs of public establishments can dispense with the medical certificate.

(3) The passport or any other paper stating the individuality of the person to be placed. Mention must be made, of all the papers produced, in a report which shall be sent within twenty-four hours, together with a certificate of the doctor of the establishment and a copy of the one mentioned before, to the prefect of the police, at Paris, to the prefect or under-prefect in all the chief places of the province, and to the mayors of the other communities. The under-prefect or the mayor must immediately transmit this to the prefect.

Article 9. When a person has been placed in a private establishment, the prefect shall, within three days after the reception of the report, commission one or more specialists to visit the person described in the report, in order to report upon his mental condition; and may join to them any other person he chooses.

Article 10. Within the same interval of time the prefect shall record the name, profession, and domicile, of the person placed, and why so placed, in the asylum:

(1) To the procurator of the king of the province of the domicile of the person placed.

(2) To the procurator of the king of the province where the establishment is situated. These regulations are for both public and private asylums.

Article 11. Two weeks after the person has been placed in a public or private asylum, there shall be addressed to the prefect, according to the last paragraph of article 8, a new certificate of the physician of the establishment, which shall confirm or rectify, as the case may be, the observations contained in the certificate, indicating the more or less frequent returns of attacks of insanity.

Article 12. There must be in every establishment a register book, numbered and paragraphed by the mayor, upon which are inscribed the name, profession, and domicile of the persons placed in the establishment; the record of the sentence of irresponsibility, if it has been pronounced, and the name of the guardian; the date of admission, the name, profession, and

domicile of the persons related or not related, who has asked for admission of the patient. Likewise there must be written in this book:

(1) The physician's certificate which accompanies the request for admission.

(2) The papers which the physician must make out according to articles 8 and 11.

The physician shall enter in this book, at least once a month, the changes that have taken place in the mental state of each patient. This register must contain likewise the record of discharges and deaths. This register must be open for inspection of the persons who, according to article 4, have the right to visit the establishment; these persons must write their signatures and their observations, if any, in the book after every inspection.

Article 13. Every person placed in the insane asylum, must be dismissed therefrom whenever the physicians of the establishment have declared, by entries in the register book mentioned in the preceding article, that the cure has been effected. In regard to a minor or irresponsible person, such direction of the physicians must immediately be made known to the person to whom it must be sent, and to the procurator of the king.

Article 14. Even before the physicians have pronounced the cure effected, any person placed in an insane asylum shall cease to be retained, as soon as the dismissal is demanded by any of the persons mentioned below, namely:

(1) The curator, named below in article 38, of the present law.

(2) Husband and wife.

(3) If neither husband nor wife exist, relations in the ascending line.

(4) If there are no relations in the ascending line, those in the descending line.

(5) The person who has signed the request for admission, unless a parent declares that this is being done without the consent of the family council.

(6) Any person authorized by the family council.

In case of dissension among relations of the ascending or descending line, the family council shall decide. Nevertheless,

when the physician of the establishment thinks that the mental state of the patient would compromise the public peace and personal security, he shall bring this to the knowledge of the mayor who may immediately forbid the dismissal. Within twenty-four hours he shall report the case to the prefect. This provisional prohibitory order shall expire in two weeks, if the prefect has not given within that time contrary orders, according to article 21 below. Such orders must be entered in the register book in accordance with article 12. In case of minority or irresponsibility the guardian alone can demand a dismissal.

Article 15. Within twenty-four hours after dismissal the chiefs or directors shall notify the functionaries mentioned in the last paragraph of article 8; make known to them the names and residences of the persons who have removed the patient; his mental condition at the time of dismissal; and, if possible, the place to which he has been sent.

Article 16. The prefect may always command the immediate dismissal of persons, who have been placed voluntarily in insane asylums.

Article 17. In no case shall a person, who has been declared irresponsible, be remitted to any other hands than those of his guardian; nor a minor to the authority of any but those who are responsible for him.

Section 2.—Commitment by Public Authority.

Article 18. At Paris the chief of police, and in the provinces the prefects, shall officially command the commitments to the insane asylum, of any person whose mental state would compromise the public peace and personal security. * * * * The orders of the prefects must be accompanied by their reasons, and must state the circumstances which have rendered them necessary.

These orders, as well as those which shall be given according to articles 19, 20, 21, and 23, shall be inscribed on a register book similar to that which is prescribed in article 12 above mentioned, all the dispositions of which shall be applicable to individuals placed there officially.

Article 19. In case of imminent danger, attested by the certificate of the doctor, or by public notoriety, the commissioner

of the police at Paris, and the mayors in the other communities, shall take, regarding persons mentally insane, all necessary measures, and they shall report this within twenty-four hours to the prefect, who shall decide without delay.

Article 20. The chiefs, directors or responsible trustees of the establishments, shall address to the prefect in the first month of every half-year, a report revised by the physician of the establishment, of the mental state of every person who is retained there, the nature of the disease, and the result of the treatment. The prefect shall pronounce on each case separately, and shall command their respective dismissal or detention.

Article 21. Concerning the persons, whose commitment has been voluntary, and in the case their mental condition might compromise public peace or personal security, the prefect may, as pointed out in the second paragraph of article 8, make out a special order, to prevent them from leaving the establishment without his permission, unless it be to place them in some other establishment. The chiefs, directors, or responsible trustees shall be compelled to conform to this order.

Article 22. The procurator of the king shall be informed of all orders, issued according to articles 18, 19, 20 and 21. These orders must be made known to the mayor of the domicile of the persons admitted, who shall notify their families.

He shall also render an account to the minister of the interior. The different notices prescribed by the present article shall be made in the forms, and during the intervals, prescribed in article 10.

Article 23. If, during the time which has passed between the reports commanded in article 20, the physicians declare, in the register book, kept according to article 12, that the dismissal may be allowed, the chiefs, trustees, or responsible directors of the establishment shall, under the pain of being punished according to article 30 below, immediately notify the prefect, who shall decide without delay.

Article 24. The public and private hospitals shall receive temporarily the persons who are sent to them, according to article 18 and 19, until they have been directed to the special establishments destined to receive them, according to article 1, or during their transfer there. In all the communities that

have public or private hospitals, the insane, while being transferred to their asylums, may temporarily be placed in these. Where there are none, the mayors must provide for their lodging in an inn, or other building rented for that purpose. In no case shall the insane be brought together with criminals, nor thrown into prison. These rules apply to all insane persons, sent by the government to public or private asylums.

Section 3.—Expenses.

Article 25. Insane persons whose place of confinement has been changed by the prefect, and whose families have not demanded their admission to a private asylum, shall be brought to the establishment belonging to the province, or to that with which the province has made a contract. The insane whose mental state does not compromise the public peace, shall likewise be admitted there under forms, circumstances, and conditions, regulated by the general council, upon the proposition of the prefect, approved by the minister.

Article 26. The expenses incurred in transporting persons, directed by the government, to the asylums, shall be paid by the prefect. The charges for maintenance and treatment of persons placed in the hospitals, or public asylums, shall be regulated by the prefect. The charges for the maintenance and treatment, of persons placed by the province in private establishments, shall be fixed by agreement made according to article 1.

Article 27. The expenses recounted in article 26, shall be charged to the patients; in default they shall be charged to those, who are obliged to pay assessments according to article 205, ff, of the Civil Code. If there exists disagreement as to who is to pay the assessments, or how much is to be paid, this shall be decided by the court, at the suggestion of the administrator according to articles 31 and 32. The collection of sums due, shall be controlled by the administrator.

Article 28. When resources are insufficient, or none exist, provision must be made by financial laws, from the ordinary resources of the province to which the patient belongs, without prejudice to the community of the domicile of the insane. The hospitals shall be indemnified, according to the number of insane under their treatment, who should be placed in a special

insane asylum. In case of disagreement it shall be determined by the council of the prefecture.

Section 4.—General rules, concerning persons placed or retained in insane asylum.

Article 29. Any person placed or retained in an asylum may make, at any time, an application to the court of the place where the asylum is situated, by his guardian, curator, friend, or parent, for release; after necessary investigation, if there is reason for it, the court shall command his immediate dismissal. The persons who have asked for admission, and the procurator of the king, officially, may make the same application. In the case of declared irresponsibility, this demand cannot be made, except by the guardian. The decision shall be rendered, and the requests, judgments, and other acts, which may ensue from applications for removal, shall be duly registered. No requests, and no applications for removal addressed to the judiciary or administrative authority shall be suppressed by the same or by the chiefs and directors of the establishments, without making them liable to punishment according to title 3, below.

Article 30. The chiefs, directors or responsible officers shall not, without being liable to punishment according to article 120, of the Penal Code, retain a person in an insane asylum, after his dismissal has been ordered by the prefect according to article 16, 20, 23, or by the court according to article 29, nor as quoted in article 13 and 14.

Article 31. The administrative or supervising commissioners of public asylums or hospitals shall exercise, with respect to persons there placed, who have no other guardian, provisional administrative functions. They shall appoint one of their number to exercise them; the administrator thus appointed shall proceed to recover sums due the person placed in the establishment, and to pay his debts; he shall issue bonds for not longer than three years, and may by virtue of a special authority from the president of the civil court, sell the patient's goods and chattels. The accruing sums shall be paid directly into the treasury of the establishment, and shall be employed, for the benefit of the patient. The parents, the husband or wife of patients, and the administrative commissioners or the

procurator of the king, may always have resource to the provisions of the following article (32).

Article 32. On the request of the parents, husband or wife, administrative commissioners, or, officially, of the procurator of the king, the civil court of the domicile may, according to article 497, of the Civil Code, appoint a provisional administrator for the estate of any patient, who has no other guardian. This appointment shall take place only after deliberation in the family council; and from it there shall be no appeal.

Article 33. The court, upon the request of the provisional administrator, shall appoint a special attorney to represent at law any patient, who has no other guardian, and who happens to be involved in a suit at the time of his commitment, or against whom legal proceedings have been begun after his commitment.

The court may likewise, in case of urgency, appoint a special attorney to begin a lawsuit for the patient. The provisional administrator shall in both cases be the special attorney.

Article 34. The regulations of the Civil Code, regarding cases of guardianship, their disability or exclusion, apply also here. The provisional administrators may, at the same time mortgage the patient's estate by a special or general mortgage. The procurator of the king must, in two weeks, have this mortgage registered: it shall be valid only from the day of registration.

Article 35. Where a provisional administrator has been appointed, any legal notices to a patient shall be served on this administrator. The legal notices may, according to circumstances, be amended by the courts in accordance with article 173 of the Commercial Code.

Article 36. When there is no provisional administrator, the president of the court, upon the request of the most interested party, shall appoint a notary to represent the patients who have no other guardian in their legal affairs.

Article 37. All the powers conferred by the preceding articles shall become invalid, as soon as the patient is dismissed from the asylum. The powers conferred by the court according to article 32, shall become invalid after these [three] years, but may be renewed. This disposition shall not be applicable to the provisional administrators appointed for the care of patients in private asylums.

Article 38. Upon the request of a parent, husband, wife, or friend, and officially of the procurator of the king, the court may appoint beside the provisionary administrator, a curator to any patient, who has no other guardian, who must take care first, that the revenues of the patient be employed to improve his condition, and accelerate his cure; second, that the individual be reinstated in his rights, as soon as his mental condition makes it possible. This curator shall not be chosen from among the presumptive heirs of the patient.

Article 39. The acts of the patient during the time of his confinement in the asylum, may be declared null and void according to article 1304 of the Civil Code.

TITLE III.—GENERAL REGULATIONS.

Article 41. Any violations of article 5, 8, 10, 12, 13, 15, 17, 20, 21, 29, committed by the chiefs, directors, or responsible officers of public or private asylums, or, of the physicians employed in the asylums, shall be punished by imprisonment of not less than five days, nor more than one year, and by a fine of not less than fifty, nor more than three thousand francs (\$10 to \$600).

Article 463 of the Penal Code also applies.

LAW OF DECEMBER 18TH, 1839.

TITLE I.—RELATING TO PUBLIC AND PRIVATE INSANE ASYLUMS.

Article 1. The public asylums shall be administered under the authority of the secretary of the department of the interior and the different prefects, shall be under the surveillance of commissions and managed by responsible directors.

Article 2. These commissioners of surveillance shall consist of five members, appointed by the prefect. They shall be appointed for five years; but every year one member shall be replaced by a new one, so that in five years the whole commission shall consist of new members. The commissioners may be discharged by the minister of the interior only. Every year after the installation of a new member, the commissioners shall appoint a president and secretary.

Article 3. The directors and physician shall be appointed by the secretary of the interior, directly for the first time, and for following vacancies, from at least three candidates presented by the prefects. These vacancies may also be filled by directors or doctors from other asylums. Medical students, attached to the asylums, shall be appointed by the officers of each asylum. The directors and physicians may be discharged only by the minister of the interior.

Article 4. The commissioners appointed in article 1, charged with the general surveillance of the asylums, must give their advice concerning the management of each asylum, and the expenses and income of management.

Article 5. This commission must assemble once a month, but may be called together by the prefect, at any time, that it is necessary. The director, and the chief physician shall assist at the sessions of the commission, but shall have only a consulting voice. The director and chief physician, however, shall leave the session as soon as the commission shall deliberate upon the finances of the asylum, or upon any matter which is to be reported directly to the prefect. The director shall have the interior management of the asylum, and of its expenses and revenues. He shall regulate the admission and dismissal of persons placed in the asylum, according to the conditions required by law. He shall appoint or discharge the subordinate officers of the establishment; but watchmen, nurses and servants shall be subject to the approval of the chief physician, who may demand their dismissal. The prefect shall decide in case of disagreement.

Article 7. The director shall provide exclusively for every thing which concerns the good order of the asylum, within the limits of the regulations of the interior service, subject to the approval of the minister of the interior, as stated in article 7, of the law of June 30, 1838. The director must reside in the asylum.

Article 8. The medical service shall be placed under the control of the chief physician within the limits of the regulations of the interior service mentioned in article 7. The assistant physician, medical students, officers, nurses, and watchmen, so far as the medical services are concerned, are under the authority of the chief physician.

Article 9. The chief physician shall fulfil the obligations, demanded by the law of June 30, 1838, and shall make out all the certificates demanded. These certificates shall not be made out by the assistant physicians, except in the case of the certified disability of the chief physician to attend to them. When both the chief and assistant physician are disabled, the prefect shall be authorized to temporarily provide some one in their place.

Article 10. The chief physician shall reside in the establishment. He may at any time be excused from this obligation, by a special decision of the minister of the interior, provided he shall make daily at least one general visit to the insane confided to his care, and provided his place is supplied by a resident physician.

Article 11. The administrative commissions of the civil hospitals, who have or shall prepare in their buildings, special quarters for the insane, shall elect, subject to the approval of the prefect, a responsible officer, who shall be subject to all the obligations stated in the law of June 30, 1838. As stated in article 7, the interior regulations of the appointments for the insane, provided in hospitals, shall be subject to the approval of the minister of the interior.

Article 12. No apartments for the insane shall be provided in civil hospitals, unless at least fifty patients can be accommodated; concerning the quarters actually existing, where only a small number of insane can be received, their continuance shall be decided upon by the minister of the interior.

Article 13. The minister of the interior may, at any time, authorize, or officially command, the combination of the duties of director and physician in one person.

Article 14. The salaries of the director and physician shall be determined by the minister of the interior.

Article 15. In all of the public asylums where work is used as a curative means, the income from such work shall be used according to the discretion of the officers of the institution.

Article 16. The laws and regulations bearing upon the general administration of hospitals and charitable establishments concerning their money affairs, shall also apply to the public insane asylums, in all respects where they do not disagree with what has been stated in the present law.

TITLE II.—THE PRIVATE INSANE ASYLUMS.

Article 17. Whoever shall establish or erect a private insane asylum, must solicit permission from the prefect of the province wherein the institution is to be located.

Article 18. He must state: First, that he is of age, and has full rights of citizenship. Second, that he has led a good and moral life; this shall be attested by a certificate from the mayor of the community in which he has resided for the last three years. Third, that he is a doctor of medicine.

Article 19. If the petitioner is not a doctor of medicine, he must state that he has engaged a physician who will supervise the medical department of the asylum. This physician shall be subject to the approval of the prefect, who may at any time discharge him, with the approval of the minister of the interior.

Article 20. The petitioner must state in his petition the number and sex of the patients that can be received in the establishment: this shall be mentioned in the authorization papers.

Article 21. He must state whether he will receive only insane patients, or other patients also. In the latter case he must show in the plan of the establishment, what parts are set aside for the insane, and that such patients will be separate from other patients.

Article 22. He must show: First, that the location of the asylum is not unhealthy, and that the patients will not be annoyed by a noisy neighborhood. Second, that there will be sufficient good and fresh water. Third, that it is possible to separate the sexes, and the children from adults, and that the convalescent, the peaceable, the dangerous, and the epileptic patients can all be separated from each other. Fourth, that the patients have separate apartments. Fifth, that precautions have been taken to secure good order in the establishment.

Article 23. He must likewise state that sufficient guarantees will be furnished for the good morals of the officers of the establishment, and for the security of the patients.

Article 24. Every director of a private asylum, before entering upon his duties, must furnish security, the amount of which shall be determined by the minister of the interior.

Article 25. This security shall be paid in cash into the

treasury of the institution, and shall be employed, as stated in article 26, for the benefit of the patient.

Article 26. When, for any reason, the managing officers of a private insane asylum are suspended, the prefect may appoint a provisional manager, to fill the place of a responsible director in whose hands the establishment, under the mandate of the prefect, shall disburse the security, in part, or in whole, for the benefit of the insane.

Article 27. Every director of a private insane asylum, may appoint, from the first, a person to take his place in case he should be compelled to give it up. But this provision shall be good for a month only after the director has resigned, unless prolonged by special authority from the prefect.

Article 28. In case the director should resign without having made such an appointment, his heirs may appoint within twenty-four hours a person to take his place temporarily. If they do not, the prefect himself shall make the appointment. The heirs of the director may within a month nominate a new director.

Article 29. When the director of a private asylum wishes to receive more patients than he is entitled to, he must make a special application to that effect, and must show that the enlarged, original, or newly constructed buildings, and all their arrangements, make the accommodations of a greater number possible.

Article 30. Every director of a private asylum must reside on premises, and likewise the doctor, who shall be appointed as described in article 19.

Article 31. The authority or license may be withdrawn: First, when the director is deprived of his right of citizenship. Second, when he receives more patients than he is entitled to. Third, when his patients belong to a sex which he is not permitted to receive. Fourth, when he receives patients of a different nature than he is entitled to receive. Fifth, when alterations are made on the premises, which will damage the interests of patients. Sixth, and seventh, when the patients are treated in a manner not humane or not in accordance with good morals. Eighth, when the physician who has been approved of by the administrator, has been replaced by another

physician. Ninth, when the physician acts contrary to article eighth, of the law of June 30th, 1838.

Article 32. Law Dec. 18, 1839. Pending an investigation which may result in the withdrawal of the license, the prefect may temporarily suspend the director and appoint a provision-ary manager, in accordance with article twenty-sixth.

Article 34. Ibid. Public or private asylums, that have only male patients must employ male attendants only; those that have female patients must employ female attendants only.

BELGIUM.

EXTRACT FROM INSANE LAWS, JUNE 18TH, 1850.

1. ADMISSION, ETC.

Belgium authorizes the family treatment, and regards as an insane asylum any house where the insane are treated by a person that is not the guardian, curator or provisional administrator.

Admission may take place only in the following cases:

(1) Upon the request of the tutor of an irresponsible person, accompanied by the decision of the family council, according to Art. 510 of the Civil Code. Where irresponsibility has not been pronounced, the provisional administrator may make the request, adding to it the necessary judgment.

(2) Upon a request for admission by the authorities of the domicile of a pauper insane.

(3) Upon the requisition made by the college of burgomasters; in cases of urgency, the justices of the peace of the domicile of the insane person, and the attorney-general, are notified within three days, of such admission.

(4) Upon the requisition of the public ministry, in the case of accused or arrested persons who are afflicted with insanity.

(5) Upon the demand of any interested party, indicating the nature of the relation or degree of relationship that exists between such party and the insane. In this case, the request ought to be signed by the burgomaster.

(6) By virtue of a resolution of the permanent deputation of the provincial council, in the cases Nos. 2, 3, and 5, preceding. In case of urgency, the governor alone may issue the resolution, but it shall be before the permanent deputation at their next session.

In all of the above cases except the first, a physician's certificate must be produced, which certificate shall have been

dated within two weeks and issued by a physician who is in no way connected with the asylum. However, in cases of urgency, this certificate may be furnished within twenty-four hours after the admission.

The superintendent of the asylum must, within twenty-four hours after the admission, advise: 1st, the governor of the province; 2d, the attorney-general of the arrondissement; 3d, the justice of the peace of the county; 4th, the burgomaster of the community; 5th, the committee of surveillance of the asylum. The family, also, of the insane person must be notified, when the admission has been effected *ex-officio* by the legal authorities.

The patient is visited, during the first five days, by the physician of the asylum, who on the sixth day communicates his observations to the attorney-general.

II. SURVEILLANCE, ETC.

The asylums are visited at irregular intervals: 1st, once in every six months by the burgomaster of the community; 2d, once in every three months by the attorney-general of the arrondissement (*procureur du roi de l'arrondissement*); 3d, once annually by the governor of the province, or by a member of the permanent deputation of the provincial council delegated by the governor.

GERMANY.

Amendment to Par. 30, part 1st. of the Gewerbeordnung. July 23, 1879.

GENERAL REGULATIONS.

People who desire to establish private insane asylums, must have a permit from the government. This permit is to be denied: First, when facts exist which show that the person is unable to do justice to his undertaking. Second, when a revision of the description and building plans, accompanying the petition, show that the laws of hygiene are not duly regarded.

PRUSSIA.

Regulations for the Insane Asylums of the Province of Brandenburg in force since July 16th, 1879.

SECTION 1.—OBJECT OF THE ESTABLISHMENTS.

Par. 1. The public lunatic asylums of the Province of Brandenburg are designed for the treatment and cure of deranged persons, who must be supported either by a local or the provincial commission on charity (Par. 28 to 30, Reichsgesetz laws of June 6, 1870), or who belong to the province (Par. 5, Provinzialordnung). If space permits, other insane may be received, but may be dismissed whenever the asylum becomes crowded.

In this respect Prussian subjects have preference over other Germans, and Germans again over foreigners.

Par. 2. The object of the establishments is: First, cure of curable patients. Second, treatment and improvement of incurable patients, who are dangerous to themselves or to others. Third, if an asylum is not filled with these, it may receive incurable harmless patients, who need the care of an asylum. They are intended principally for patients, who are too poor to pay for themselves.

SECTION 2.—ADMINISTRATION AND INSPECTION OF THE ESTABLISHMENTS.

Par. 3. The public insane asylums, and the branch establishments connected with the same, are to be administered and supervised, as provincial establishments, according to the regulations of the provincial order. The immediate supervision of each separate establishment is entrusted to a commissioner (Par. 99, Provinzialordnung).

Par. 4. Each public asylum is conducted in medical, administrative, and economical respects, by the first medical official, as director. He is appointed by the provincial diet, in cases of emergency, however, by the provincial delegation, who must notify the provincial diet at their next assembly of such appointment. The director is the supervisor of all the other officers of the establishment and of the other employes, and is represented, when absent, by the second medical official of the establishment, who is called chief physician (*oberarzt*), unless the land-director has arranged otherwise. The director has the privilege of leaving the asylum for eight days without asking for permission, provided he has taken care to be ably represented during his absence. The director receives mileage when on official journeys, like the higher provincial magistrates (Par. 23, No. 2, *Reglement btr. dienstliche Verhaelt-nisse der Provinzialbeamten*). The branch establishments are governed in medical respects by their physician, under the supervision of the director of the respective provincial asylum, administratively and economically by the inspector of the establishment.

The latter is the head of the establishment and the superior of all employes. He is to take care that all medical arrangements are carefully carried out.

Par. 5. The officers necessary to the administration of the

asylums are to be appointed by the provincial delegation, subject to the suggestion of the director of the establishment: the reception and dismissal of the employes takes place only through the head of the establishment. When assistant physicians or other assistants are to be appointed, the permission of the land-director is to be sought.

The duties and privileges of all officers are pointed out by the regulations concerning provincial officers.

According to Par. 98, No. 3, of Provinzialordnung, the physicians, inspectors, clergymen, secretaries, and assistants are regarded among the higher officers of the establishment.

The employes of lower rank are appointed and, if necessary, dismissed by the head of the establishment.

All employes are subject to the domestic laws laid down by the provincial delegation.

SECTION 3.—MAINTENANCE OF THE ESTABLISHMENTS.

Par. 6. The land insane asylums are maintained by the provincial alliance, whenever the expenses are not covered: (a) by the income from the lands and farms belonging to the establishment; (b) by the moneys paid by the patient; (c) by donations or legacies.

Par. 7. The amount to be paid by the patients for board and treatment shall be determined from time to time by the provincial diet, and made public by the land-director.

Indigent patients, who are not entitled to support from a home community of the province, and patients in better circumstances who do not belong to the province, shall pay one-third more, and foreigners somewhat more still, according to the decision of the land-director. The latter may increase the charges for the patients, when their treatment and supervision are difficult and expensive.

Patients of the first and second classes of treatment must pay the establishment for their clothes and washing and any necessary supplies, besides their board.

Par. 8. The communities of the province need not pay for curable or dangerous persons in the establishment, but, for incurable or harmless patients in the asylum, they shall pay three-fourths of their board, for the last class of treatment.

Payment must be made in the same way for dangerous

patients (Par. 2, No. 2,) when according to the judgment of the director the insanity has been in progress longer than six months before a request was made for the reception of the patient, and when, according to the judgment of the delegation, the home community have delayed, by their own fault, to bring forth the request. In respect to an indigent patient the home communities of the province must carry out the instructions of Par. 7, 11, 20, and 21. Whether a patient is to be considered incurable or dangerous, shall be decided by the land-director, after hearing the statement of the director of the establishment, and in case of appeal, the provincial delegation shall decide. The charges for board and treatment may be abated or annulled only in so far as the expenses for the patient shall be borne by the home community (Par. 29, 30, des Reichsgesetzes Ub. d. Unterstützungswohnsitz vom 6, Juni 1870) and only on the condition, that the home community is not reimbursed from the patient's estate for their expenses (Par. 10, and 12). But the payments made from the income of the patient or by his relatives (Par. 14, No. 4) shall be reckoned with the payments to be made by the home community. Home communities which are not able to fulfil the obligations (Par. 36, of the law of March 8, 1871,) may be partially or entirely relieved from them by the land-director.

Par. 9. The charges for treatment shall be paid in immediately after the reception of the patient for one month; after that, quarterly, in advance. To defray expenses for extraordinary attention to patients of the first class of treatment, a sum to be fixed by the director of the establishment, must be paid in advance, and must be replaced as soon as expended. When a patient is dismissed, any money which is credited to him, will be refunded.

Par. 10. To defray the cost of the treatment of the patient, the province does not attack his estate, and his income only in so far as it is not needed for the support of any person in the ascending or descending line, husband or wife, or other near relatives that are dependant for existence on the patient at the time of his confinement in the asylum. The land-director is to decide what payments are to be made; he may also, according to the changes of circumstances, increase or decrease the sum. To this amount the income of the patient

will be drawn upon, even when he has been received upon the request of the home community.

Par. 11. Expenses for burials, if not covered by the money still to the credit of the patient, must be paid by those liable for the support of the patient during his life, or in default of such persons, by the home community.

Par. 12. Any debts of a deceased patient to an asylum may be paid from his estate, only, when there are neither descending nor ascending nor collateral relations of the first degree. But if it is found that the income of the deceased patient during his sojourn in the asylum has not been made entirely known to the land-director, he is entitled to receive from the estate of the deceased patient, or from his descending or ascending or collateral relatives, whatever money has been thus withheld from the provincial alliance.

Par. 13. When an asylum receives donations or legacies, they must be employed according to the intentions of the donor; when no such intentions have been expressed, they must be laid out at interest, as cash capital of the asylum, in order to improve the establishment from the interest of the capital, or to ameliorate the condition of the patients.

SECTION 4.—RECEPTION OF PATIENTS.

Par. 14. Petitions for reception of a patient must be made to the land-director through the intercession of the home police office.

The petition is to be accompanied by:

(1) Testimony given and sworn to by an approved physician, answering the questions concerning the nature of the mental disease, in response to the questions contained in the interrogatories published by the land-director.

(2) By a testimonial, made out by the home police office, in accordance with the interrogatories of the land-director, stating the personal affairs of the patient and of his property, stating whether he belongs to the province, whether he is entitled for support to any place, and where, and how far his expenses can be paid from the income of his property, or by third parties.

(3) Either: (a) the declaration of the patient's father, wife or husband, guardian, or legal representative, given under

oath before the home police office that his reception to a public lunatic asylum is desired; or (b) the testimonial of the home police office, that a legal representative of the patient is not living or not to be found, and a written application, certified or attested by a public magistrate, of the nearest relatives, or of the wife or husband of the patient, that they desire his reception into a public lunatic asylum; (c) the certificate of the home police office, that neither from the legal representative nor from the nearest known relatives, nor the wife or husband of the patient, an application can be had, for his reception into a public insane asylum, and that outside of an asylum the patient will not have due attention in his helpless condition; (d) if the legal representative of a patient or his near relatives or his wife or husband oppose his reception into a public lunatic asylum, the testimony of the home police office that the patient is not well cared for, and that he has either already been declared irresponsible, or that a petition to that effect has been issued at court.

(4) Either a certified written declaration of the legal representative of the patient or of a third party, that he binds himself to fulfil the conditions required for the patient's admission into the desired "class of treatment" of the public insane asylum, or in a branch establishment, and the certificate of the home police office, that the patient is considered entitled to these privileges; or the official declaration of the home community, that the reception of the patient is demanded in accordance with regulations, and that the committee bind themselves to fulfil all his obligations. This declaration of the home committee on charity is not needed: (a) when the patient is entitled to the care of the provincial committee on charity; (b) when the patient has his home inside of the province and the money offered for his treatment is considered sufficient by the land-director.

Par. 15. Whether a patient is to be received, shall be decided by the land-director after hearing the testimony of the director of one of the public asylums, and in case of a complaint, by the provincial delegation.

On demand of the home committee on charity, the land director is to arrange the temporary reception of the patient when testimony is given by the home police office that a pa-

tient is not sufficiently taken care of at his own home, and when the expense of the patient and his return home are guaranteed by the home committee on charity for two months. The land-director shall decide into what establishment the patient is to be received.

A foreigner, whose reception is not demanded by the home committee on charity of the province, is admitted only when a payment is guaranteed sufficient for his treatment.

Par. 16. In cases of emergency the land-director may, upon the ground of a medical testimony according to Par. 14, No. 1, temporarily admit the patient, if, in case requisites for reception, according to Par. 14, should not be furnished within the required time, the expense of treatment and removal of the patient are sufficiently guaranteed.

A similar privilege is granted to the director of the public asylum with reference to curable and dangerous patients (Par. 2, Nos. 1 and 2). But he is bound immediately to ask for the approbation of the land-director.

Par. 17. The land-director is to notify the proper judiciary department of any reception of a patient in a public establishment.

Par. 18. Within three weeks after the permission of the reception by the land-director, the patient shall be taken to the asylum, accompanied by papers from the home police office, stating the names and the residence of the patient and a list of his articles of apparel.

If, however, at the residence of a patient a dangerous epidemic is raging (cholera, small-pox, typhus, dysentery, etc.), the reception of the patient can be denied during the existence of the epidemic.

The companions of the patient are entitled to receive written testimony of the reception of the patient.

If the reception does not take place within three weeks, or within a space of time extended by the land-director, application must be made anew, according to Par. 14.

Par. 19. Except in cases of emergency, the chief of an establishment shall receive patients in week days between eight o'clock in the morning, and eight o'clock in the evening, when he has been notified before, of the arrival of the same. The reception may be denied to patients who are uncleanly.

Par. 20. Every patient must bring with him at least such articles of apparel, in good and cleanly condition, as are numbered in the appendix.

If articles are wanting or useless, they shall be provided for by the establishment, at the expense of those liable for the support of the patient, or of the respective committee on charity, if not furnished within fourteen days.

Par. 21. If the land-director commissions the transfer of a patient to another establishment, the expenses incurred shall be paid by those liable for the support of the patient or the committee on charity, unless such transfer takes place entirely in the interest of the administration of the establishment.

Par. 22. Under commission of the land-director, the director of a public insane asylum may receive persons, who ask for admission in order to have their mental condition observed, temporarily, for not longer than six months, when the personal affairs of the petitioners are approved, and their expenses are sufficiently guaranteed. If within the time of observation a mental disturbance is made manifest, which makes the detention in the establishment necessary, the director is to make the necessary arrangements through the respective home police office.

SECTION 5.—TREATMENT OF PATIENTS.

Par. 23. As long as a patient has not been declared irresponsible, the inspector of the establishment shall demand any necessary guardianship over the person or his estate from the respective court. He shall also report at any time, when demanded, concerning the condition of the patient, to the persons entitled to cause the patient to be declared irresponsible. (Par. 595, Civ. Proz. Ordg.)

Par. 24 With the public asylums, there exists in reference to the domicile and board of the patient, different classes of treatment in which patients are classed according to their former habits of living and their state of insanity, and according to the amount of their fortune, subject to the decision of the land-director. [See remarks to Par. 7.]

Patients entitled to assistance are to be received in the last class of the treatment; others into that class of treatment to which they are entitled by the amount of their payments.

The land-director, however, may allow, on petition of the director of the public establishment, the transfer of the patient from one class of treatment into a higher one, or the transfer from one establishment to another, when such action seems to be warranted by medical reasons.

Par. 25. By special understanding with the chief of an asylum, approved and at any time revocable by the land-director, a patient may be granted special privileges in respect to residence, treatment, or attention.

The chief of the establishment is further entitled to receive money from patients, for extraordinary attention, and at the end of the year these sums shall be accounted for to the representative of the patient.

Par. 26. For patients who take part in the work of the establishment, the chief of the establishment may receive from the land-director, according to the proportion of the class of treatment, an amount which is to be employed for the benefit of the patient.

Par. 27. In all other respects the more particular arrangements, concerning the treatment of the patient, are regulated by the domestic order of the establishments and the instructions of the officers. Patients are, as long as they are in the establishment, in respect to the other conditions of living, subject to the arrangements of the inspector and the prescribed rules of domestic order. Within this they are allowed every liberty, which does not endanger the cure, and which is compatible with the degree of insanity and the security of the patient and his surroundings.

Par. 28. If a patient escapes from the asylum, all necessary means must be employed to find and return him; when he is not found within twenty-four hours, the relatives of the patient and the home police office, from which the patient has been sent to the asylum must be informed of the escape.

Force may be used for the return of the patient, only when this is approved of by the home police office, within whose jurisdiction the patient has been found. Force must never be employed with a harmless patient, when he has taken shelter with his legal representative, or in default of such a one, with one of his nearest relations, and they oppose his being taken back.

Par. 29. When a child is born to a patient, the inspector of

the establishment, (beside the prescribed announcement to the officer of the estate) must inform immediately the home police office of the district from which the patient has been brought to the establishment, and shall take care, that the child is removed from the asylum, as soon as this can be done without danger to mother or child.

If the relations of the mother refuse to receive the child the latter shall be made over to the home committee on charity of the district in which the establishment is situated.

Par. 30. When a patient dies in an establishment, the chief of the same shall report his death immediately (*a*) to the respective court, and to the legal representative of the patient, or if the patient has been declared irresponsible, to the authorities whose duty it is to take care of public interests on the declaration of irresponsibility; (*b*) to the home police office of the district from which the patient has been brought to the establishment.

He shall also advise the relatives of the deceased, of the day and hour of burial, if possible, so that they may do him the last honor.

SECTION 6.—DISCHARGE OF A PATIENT.

Par. 31. The discharge of a patient must take place immediately: (*a*) when he is cured according to the judgment of the director of the public asylum; (*b*) when the request to declare him irresponsible has been finally denied, or when any declaration of irresponsibility has been judicially annulled; (*c*) when his legal representative demands it, and when the home police office of the district from which the patient has been brought to the establishment, assents to it after they have been advised by the inspector of the establishment of the condition of the patient.

Par. 32. The discharge may be permitted by the land-director, when it can take place, in the judgment of the inspector of the establishment, without danger to the patient or to public peace.

Par. 33. Beside a refutable or temporary admission (Pars. 1, 15, 16), the discharge of a patient may be demanded: (*a*) when the patient, received upon the petition of a home committee on charity, is entitled to be supported by another com-

mittee on charity not belonging to the province; (b) when the payments are not regularly made for a patient who does not belong to the province; (c) when the patient, in the judgment of the director of the public asylum, is neither curable nor dangerous, and there is lack of room in the establishment for the reception of curable and dangerous patients (Par. 2), and when the patient cannot be received in another establishment of the province. When there is insufficient room in the asylum, application for admission shall be rejected in the case of patients who are least dependent upon the care of an asylum, and among these chiefly such as have not been received upon the petition of a home committee on charity.

Whether a patient is to be remitted, and after what space of time, shall be decided by the land-director, and in case of dispute, which however is not admissible in case of refutable or temporary reception, by the provincial delegation.

Par. 34. The rejection of a patient (Pars. 31, 32, 33), must take place in the manner approved by the chief of the establishment, and on request a certificate of dismissal is to be given.

Par. 35. The director of a public asylum is entitled to dismiss a patient on trial; if the patient has not suffered any relapse within a year, the dismissal is to be considered final.

The land-director shall be immediately advised of any discharge or readmission of a patient. During the time the patient is away from the establishment, no money shall be paid for his treatment, board, etc.

Par. 36. The chief of an establishment shall report the final dismissal of a patient in any case; (a) to the judiciary department, responsible for the public interest of the patient; (b) to the home police office of the district from which the dismissed patient has been brought to the asylum.

Par. 37. This regulation shall be in force on and after April 1st, 1879.

Remarks to Pars. 7, 8 and 24 of this regulation:

Patients in the public asylums of the province are divided into four classes of treatment. Patients of the first class pay 1050 marks (\$262.50) annually. Patients of the second class 8040 marks (\$210). Third class 720 marks (\$180). Fourth class 540 marks (\$135). For patients of the first and second

classes of treatment the establishment must be repaid for clothing and washing and any extra supplies except board.

Compendium of the regulation concerning the admission and discharge of insane at the provincial insane asylum at Schleswig, May 3d, 1879.

1. Incurable or curable patients are receivable for treatment or cure into the provincial insane asylum at Schleswig, as far as room permits, when they shall have their domicile within the district of the general committee on charity of the province of Schleswig-Holstein, or are under the control of the general committee on charity.

Patients from foreign parts may be received, conditionally, with the permission of the land-director.

2. Petitions for the admission of the insane must be made in writing, to the directors of the establishment. Except in the case of free places (cf. sub 7), the petition must be accompanied, when the patient is to be taken care of at public expense, by a written certificate of the respective community, wherein the latter shall make themselves responsible for the expenses of treatment.

Application for the reception of patients, who pay for themselves, may be made by the legal representative of the same (father, husband or wife, guardian, administrator, etc.).

The petitioner must make himself responsible for the amount to be paid, and must deposit three months' payment in advance.

Only the land-director may grant exceptions to this rule.

3. The petitions for admission must further be accompanied: (a) by a complete history of the case, in a sealed envelope, according to the regulations of September 1st, 1874, (Amtsblatt, 1874, piece 44, No. 1168); (b) a medical certificate; (c) certificate of baptism or birth; (d) when the person is to be a private patient, an explanation concerning the class of treatment into which he is to be received.

4. Patients must not be brought to the establishment before their reception has been permitted by the standing commission of the same.

The transfer shall be free, and the patients of the third class

of treatment at their reception must be provided with necessary articles of clothing. These articles must be comparatively new.

Missing articles will be provided by the establishment at the regular prices. These articles of apparel remain the property of the patient at his discharge, but in case of death, when the patient has remained at the establishment more than a year, they shall become the property of the establishment.

Patients of the first and second classes must provide their own clothing or any other extraordinary supplies.

The companions of the patient shall receive a certificate concerning the articles in possession of the patients brought to the establishment.

5. The establishment grants to the patients medical treatment, medicine, baths, lodging, fire, bedding, light, washing, board and treatment; to the patients of the third class also clothing. Payments shall be made for board etc.: (a) for patients belonging to the province of Schleswig-Holstein, in the first class, 1600 marks (\$400). In the second class, 800 marks (\$200). In the third class, 440 to 400 marks (\$110 to \$100). (b) For patients from foreign parts: in the first class, 2000 marks (\$500). In the second class, 1000 marks (\$250). In the third class, 540 marks (\$135).

These payments shall be paid quarterly in advance. If the relatives of a patient desire a private servant for the same, they must pay, 500 marks annually for a male, and 450 marks for a female servant.

6. In cases of death, the amounts already paid for patients of the third class becomes the property of the establishment, and shall be used for the expenses of interment.

The expenses of interment of patients of the first and second class are to be borne by their relatives, etc., and amount to 288 marks in the first and 180 marks in the second class.

7. Free-places. Curable patients, without means, receive in the first three months of their abode in the asylum free-care, on their first attack of insanity and if their admission is sought immediately after its appearance.

The probability of a cure will be considered in accordance with the medical history of the case, and further ratified by the observations of the leading physician of the establishment.

The free-care may be prolonged for three months, when according to medical judgment the cure is probable within such space of time.

Patients of the second and third classes will in like cases be forgiven one-half of their dues.

In the case of a relapse of a patient who has been discharged as cured within the space of six months, the regulations concerning the free months will become valid again. In cases of death the costs of interment for patients of the third class, who had free-places must be paid by their representatives to the amount of 35 marks.

The regulations concerning free-places become valid on the the first of January, 1880.

8. The relations, etc., of the patient must avoid all immediate influence upon him, and must confine themselves to communicating any intentions and wishes concerning him to the director of the establishment.

Letters intended for the patients, and any other remittances for the same, should be addressed only to the director, who will forward them if considered proper.

Visits from relations, acquaintances, etc., may always be received with his permission.

9. Concerning the discharge of cured patients or of incurable ones who have become harmless, the standing commission of the asylum shall decide, upon the requests of the director. The commission is also entitled to dismiss patients on trial, when recovery seems doubtful; during such temporary discharge, the relatives, representatives, etc., of the patient must advise the director concerning his mental state, once in three months, accompanying such information each time with the testimony of the respective physician.

Those who have demanded the admission of the patient, may at any time demand his dismissal, but must inform the director of such intention at least two weeks beforehand.

Against the will of the respective authorities, relations, representatives, etc., patients may be discharged only with the assent of the land-director:

(1) When the reasons for admission no longer exist (cf. sub 3).

(2) When on account of lack of space in the asylum, the

discharge of incurable patients, who are not dangerous to the community, becomes necessary.

(3) When the expenses are not regularly paid. In case of discharge the patient must be taken away by his representatives, etc., without any expense to the establishment. If the patient is not taken away in time, the standing committee is entitled to remove the patient at the expense of his representatives, etc.

Appendix A.—List of articles of clothing with which the patients of the third class must be provided on their admission.

(a) Male patients: two coats, or jackets, two pairs of pantaloons, two vests, two undershirts, two pairs of drawers, two pairs of boots or shoes, six shirts, four handkerchiefs, four neckties, four pairs of socks, one hat or cap, one comb.

(b) Female patients: two dresses, four skirts, three bodices, one shawl, two pairs of shoes, six linens, four pairs of stockings, four neckerchiefs, four handkerchiefs, three aprons, two night-dresses, two pairs of drawers, one hat, one comb.

Regulation for the provincial insane establishments at Alt-Sherbitz near Schkenditz, and Nietelben near Halle, a. S., March 1, 1879.

SECTION 1.—PURPOSE OF THE ESTABLISHMENTS.

Par. 1. The provincial insane asylums at Alt-Sherbitz and Nietelben are intended for the cure of probably curable patients, and for reception and treatment of incurable dangerously insane persons of the province of Saxony.

SECTION 2—RECEPTION, TREATMENT AND DISCHARGE OF PATIENTS.

Par. 2. Into the establishment are received:

- (a) Curable patients.
- (b) Incurable dangerous patients.

When abundance of room permits it, there can be received also:

- (1) Incurable harmless patients who are entitled to be supported by the province.
- (2) Any incurable harmless patients.

(3) Military persons that are probably curable, who do not belong to the province of Saxony, but are stationed there. But they must be paid for as patients of the first, second or third class, from the army funds.

(4) Deranged persons not belonging to the province who enter as patients of the first class of treatment, provided they pay at least 300 marks annually more than the normal price for this class of treatment. (Par. 42.)

If there is not sufficient room to receive all the patients enumerated under (a) and (b), then greater probability of cure and with incurable patients, greater dangerousness, will decide as to who are to be retained in preference.

When there is any danger of overcrowding the establishment, the date of the different petitions will be considered.

Par. 3. Dangerous epidemics raging at the patients' homes, cause the temporary exclusion from the asylum, until at least six weeks after the extinction of the epidemic.

Par. 4. Whether a patient is to be considered curable or incurable will depend upon the medical certificate (Par. 10) and on the judgment of the director of the asylum, reserving the privilege of the land-director (according to Par. 10). The dangerousness of a patient must be grounded upon certain observations and be testified to by a police authority.

Par. 5. Petitions for admission must be in the first place issued by the representatives, etc., of the patient and directed to the legal authorities.

When the patients have no relatives, etc., the magistrates themselves must issue the petition.

Petitions must be accompanied by:

(1) A medical certificate, answering the questions of the model question paper (Par. 30, No. 2); or in the case of great urgency the simple statement of the respective physician, reserving the case quoted in Par. 9.

Any statements of family matters, etc., of the patient, that are to be kept generally secret, but must be known by the doctors of the establishment, must be sent to the director in a sealed envelope.

(2) A complete description of the patient, as stated in Par. 30, No. 2, and in case of dangerousness the police certificate named in Par. 4.

(3) A copy of any judicial declaration of insanity of the patient.

(4) A certificate, stating whether the patient is entitled for support to the committee on charity, or whether he is to be maintained by his relatives, representatives, etc.

(5) If the patient is to be paid for, altogether or partly by his relations etc., a guarantee to that effect must accompany the petition.

Par. 6. Companions or special servants for patients are receivable only, when entirely approved of by the director.

Par. 7. The legal authorities and magistrates must forward the petitions to the provincial council, accompanied by the documents named in Par. 5.

The provincial council must, with all possible dispatch:

(1) Examine the papers accompanying the petition and have them completed, if necessary.

(2) When the patient, his family, representatives, etc., are not or only partially compelled to bear his expenses, the provincial council must procure the guarantee of the district delegation to pay the entire or partial expenses (Par. 5, 5).

(3) The petitions for admission with the necessary documents (Par. 5) must be forwarded to the land-director.

Par. 8. In city districts the petitions must be made through or by the police authorities and handed over to the magistrates, who must proceed in the same way as the provincial councils (as quoted in Par. 7).

Par. 9. The director of the establishment shall immediately send the petitions, accompanied by his remarks, to the land-director.

Par. 10. The land-director shall give his official decision concerning the reception of the patient. If the patient does not arrive in time, without sufficient excuse, the place secured for him may be otherwise disposed of.

If the declaration, quoted in Par. 5, No. 3, does not accompany the petition, the director shall give notice immediately after the reception of the patient to the nearest court, and shall state his opinions, as to whether it is considered better to investigate judicially if the patient is to be declared insane, or whether this should be omitted in the interest of cure.

Par. 11. In cases of emergency, when there is great neces-

sity for the immediate reception of a patient according to the testimony of a district or ordinary physician, or the respective legal authorities, the director of the establishment is entitled to receive the patient directly without waiting for the approval of the land-director; but the latter shall be immediately notified of this.

If the latter refuses to sanction the reception of the patient, he shall be sent back at the expense of those who are obliged to pay for him.

Par. 12. As soon as the admission of the patient is permitted by the land-director, or the director, the patient shall be removed without delay, at the expense of his representatives, etc.

Par. 13. The opinion of the physician must be regarded concerning whether the patient is to be accompanied by one or more persons, (who must not be changed during the whole voyage), who must treat him humanely, and must be acquainted with the circumstances of the patient in order to give the necessary information to the doctors of the establishment.

Par. 14. The companions of the patient shall receive the papers, made out according to the formulary added to this regulation, to which the seal of the legal authorities is affixed.

The director shall deliver to the companion a certificate of the reception of the patient.

Par. 15. Articles of apparel must be in good condition, for patients of the first or second class corresponding to their social positions; with patients of the third class, they must consist of articles as described in the appendix to the regulations for the asylum of Baden.

ORDER IN THE ASYLUM.

Par. 16. (1) Curable patients are entitled to all means of cure at the disposition of the establishment.

(2) The first duty of the director and of the officers and employes is to treat the patients humanely. No patients must be physically or mentally beset; their secrets must be carefully guarded.

(3) Lawfulness and order must be observed in every respect and the patient must be properly employed, and his tasks must alternate with appropriate recreations and cheerful amusements.

(4) Their board must be healthful and clean, and in accordance with the appointed regulations.

(5) Cleanliness must be strictly observed.

(6) Correspondence and social intercourse are subject to the judgment of the director.

(7) The representatives, etc., of the patient shall be informed as often as practicable concerning the patient's health, etc.

(8) Any complaints concerning treatment and care of the patient shall be forwarded to the land-director, and instantly by him to the provincial delegation.

(9) The admission of strangers into the inner rooms of the establishment, will depend upon the discretion of the director, who is responsible for keeping any hurtful influence away from his patients. If the director judges it necessary, he may deny admission even to the relations of the patient.

LEAVING THE ESTABLISHMENT.

Par. 17. The director of an establishment is responsible that no patient is retained longer than necessary; and at the periodical inspection by the land-director or the delegate committees (Pars. 28 and 30), especial care must be taken to find out whether this rule is strictly observed or not.

Par. 18. Cured patients or such incurable ones as have become harmless are discharged by order of the director, when the patient's representatives, etc., the provincial-counsellor and the police authorities agree with the director that the discharge of the patient and the reception into his home community are admissible; in case of disagreement the land-director shall decide.

The director of the establishment shall notify the respective legal authorities concerning the discharge of such cured patients, as have been legally declared irresponsible.

Par. 19. As soon as the cure of a patient is probable, according to the judgment of the director of the establishment; but if the cure should become doubtful by a premature discharge, the discharge may be refused with the assent of the land-director.

If the discharge is desired in order to continue the treatment; elsewhere the assent of the Obervormundschafts Behörde (court of guardianship) is to be sought, when a guardian has been appointed for the patient.

Par. 20. Against the will of the relatives, etc., of the patient he may be discharged :

(1) In the case of Par. 44, when his payments are not met.

(2) When the establishment is overcrowded and the patient belongs to one of the classes named in Par. 2, Nos. 1 to 4.

Par. 21. A patient may be dismissed or furloughed on trial by the director, when his cure is apparently doubtful, or for medical reasons, with all possible consideration for the avoidance of any trouble to his representatives, etc., and the legal authorities.

The representatives, relations, communities, etc., are obliged to receive the patients, whose discharge must be announced to them two or three weeks before. If they have any objections they must immediately announce them.

Par. 22. The directors of the establishment shall communicate to the representatives, etc., of the patient dismissed on trial or furloughed, general or if necessary special regulations for his treatment.

The representatives, etc., must inform the directors, once in three months at least, concerning the patient's state of health.

When the condition of the patient, who is dismissed on trial, seems to demand it, the director may at any time receive him again on a petition to that effect, accompanied by the necessary medical certificate; he may even recall him upon his own responsibility.

If within six months after the temporary discharge no relapse has occurred, the discharge may be considered final.

Par. 23. When the director or the land-director have discharged a patient, his representatives, etc., or the respective legal authorities shall remove him immediately, accompanied by a responsible companion, unless the director shall declare that the patient can travel by himself.

To a discharged patient or to his companion a paper must be given stating his own and his companion's name, age and the date of discharge.

Par. 24. The expenses of removing the patient to his home are to be borne by his representatives, etc.

The expenses arising from all recreations, which have been ordered for the sake of cure, are to be paid, for patients without means, by the establishment.

When a discharged patient is not taken away in time, he shall be removed by the establishment at the expense of his representatives, etc., or the respective committees on charity; but during his furlough or temporary discharge no board shall be paid for him.

SECTION 3.—CASES OF BIRTHS OR DEATHS.

Par 25. The birth of a child in the establishment shall immediately be brought to the notice of the clergyman of the establishment, and to the legal authorities who have committed the mother, and the ordinary legal notice to be given.

The child must be taken away from the establishment as soon as this can be done without injury to mother or child.

Par. 26. The burial of deceased persons shall take place in the presence of the clergyman.

The relations of a deceased person shall be advised of day and hour of the burial so as to be able to attend it.

The director may also permit the removal of the corpse to the patient's home or to any other particular place.

Deceased of the third class of treatment shall be put in a simple coffin and buried in the burial grounds of the establishment, at the expense of the latter.

Burials of deceased patients of the first and second class of treatment must be paid for by their relations, etc.

Par. 27. Every case of death shall be entered in the register of deaths.

The director shall notify the authorities that committed the patient (Par. 10.) after his death, beside making ordinary legal notice.

SECTION 4.—ADMINISTRATION OF THE ESTABLISHMENT.

Par. 28. The general direction and supervision of the establishment is in the hands of the Landtag (Diet), the provincial delegation, etc., according to Par. 99 of the Provincial-Ordnung the especial communities or commissioners.

Par. 29. The Provincial Diet (Provincial-Landtag) is entitled:

- (1) To alter this regulation.
- (2) To lay down the plan of economy for the establishment.
- (3) To examine, decide upon, and pay, the bills of the establishment.

(4) To grant or refuse the sale of estates belonging to the establishment.

(5) To appoint the directors of the establishment (Par. 37).

Par. 30. The provincial delegation are especially entrusted with :

(1) The appointment and dismissal of the higher officials of the establishment (Par. 38).

(2) The adoption and repeal of the question-paper.

(3) The approval of the arrangement and prescription of treatment, manner of clothing and occupations of the patients.

(4) The issue of regulations for all the employes of the establishment, and of domestic orders of any kind.

(5) The examination of the plan of domestic economy proposed by the director, and of the bills brought before the Provincial Diet.

(6) The resolutions concerning buildings and improvements that cause an expense greater than three thousand marks.

(7) The pensions of employes or servants who have served a long time.

(8) The decision of complaints concerning the orders of the land-director.

(9) The chief supervision of the administration of the establishment in all its branches.

The provincial delegation is entitled to have the establishment investigated by commissioners or experts, and to have an extraordinary inspection of the establishment at least once in a year, the timely notice of which is to be given to the chief president (Par. 39). The result of the investigation must be registered and put on file.

Par. 31. Among the duties of the land-director are:

(1) The supervision of the administration of the establishment, particularly the carrying out of regular inspections, and annually at least one audit of accounts.

(2) The appointment and dismissal of the employes and officers of the establishment as far as their appointment is not placed in the discretion of the director (Pars. 27 and 30).

(3) The examination of the plans which are to be laid before the provincial delegation.

(4 and 5) The determination concerning buildings, that cost from 150 to 3000 marks.

(6) The decision of complaints about regulations of the director.

(7) The decision concerning the admission of patients (Par. 10).

(8) The determination of the amount to be paid for the patients of the first class of treatment (Par. 42, part 2), in the case of Par. 2, No. 4.

Par. 32. The immediate administration of the establishment is in the hands of the chief physician, who bears the title of director. He is appointed for life, and is entitled to pension, as is any other provincial officer who is appointed for life. Under the supervision of the provincial delegation, or the land-director, he administers generally all affairs of the establishment, and in medical and economical respects, he is the immediate superior of all the other officers, employes, waiters and servants of the establishment, and must administer the oath to all subordinate officers, and watch over the maintenance of order and discipline in the establishment.

He has, in domestic affairs, the pecuniary means of the establishment at his disposal, may also arrange buildings, repairs, etc., that do not cause an expense beyond 150 marks.

He may also grant furloughs to the subordinate officers for eight days.

All requests for a more extended furlough must be forwarded by the director to the land-director.

Par. 33. The director of the establishment is assisted by the second doctor, who represents him in his absence, and by assistant and volunteer physicians.

In ordinary cases the provincial delegation may make provisions for filling his place during his absence.

Par. 34. For all the remaining administration, discipline, etc., the director is aided by an accountant, a house-overseer, and a farm-overseer.

The accountant has charge of the finances, and entries of expenses and assets, keeps the journal and carries on all correspondence, and if necessary must be assisted by clerks. The house-overseer has the supervision of the culinary and washing departments, the inventory, etc. The house-overseer shall also represent the treasurer during his absence.

The farm-overseer takes care of the agricultural department, the management of the live stock, etc.

Par. 35. A Protestant and a Catholic clergyman conduct the divine service.

They must in their sermons pay attention to the mental states of the patients, as pointed out to them by the director, and try to help the latter as much as possible in the treatment of the patients, in religious, moral, and intellectual respects.

Par. 36. The chief steward and matron must supervise the observation of the patients and the strict observance of all domestic rules; they must have some surgical skill.

Par. 37. All the higher officers, including the treasurer, house and farm-overseer are appointed by the provincial delegation; the lower ones and the servants by the director.

Par. 38. The second physician, assistant and volunteer physicians, the accountant, the house-overseer, the farm-overseer, and the clergyman, and the director are the higher officers.

In domestic discipline, Par. 98 of the provincial order is to be followed.

Employes of the establishment shall not be used for private service by the officers.

SECTION 5.—GENERAL SUPERVISION BY THE STATE.

Par. 39. According to title 3 of the provincial order, the chief president, and in the last instance the ministry of the interior have the chief state supervision over the establishments.

They may either participate in person, or by proxy in any inspection of the establishments, or may arrange inspection tours by officers and physicians selected by themselves.

SECTION 6.—MAINTENANCE OF THE ESTABLISHMENTS.

Pars. 40 and 46, inclusive, containing regulations for payments for patients, their division into classes of treatment, and the regulations concerning paupers, not greatly differing from the corresponding arrangements as quoted under the regulations for Brandenburg, the Rhine provinces and others.

(b) OTHER EXPENSES.

Par. 47. Besides this the establishments are maintained:

(1) From the income of the state belonging to it and the proceeds of industrial labor, etc., done by the patients.

- (2) By occasional donations, legacies, etc.
- (3) By any necessary appropriations from the provincial main treasury.

Par. 48. This regulation is in force since April 1, 1879.

Conditions under which insane persons are received into the Rhenish provincial insane asylums, May 24, 1879.

Par. 1. The Rhenish provincial insane asylums are principally devoted to the treatment of curable insane; but in case of abundance of room, incurable insane will also be received. In order to avoid the crowding of these establishments, with patients whose character would interfere with the principal object of the asylums, admission may at any time be denied to incurable patients, or such incurable patients as have been already received may be discharged at any time when there is lack of room for curable patients.

Par. 2. The treatment of the patients is divided into four classes. (See remark to Par. 7 of the regulation for the public insane asylums of the province of Brandenburg, of May 13, and June 16, 1879.)

The patients are considered as belonging to the Rhine province, or to the Prussian State, when they have their domicile within the same.

In cases of dispute the question of domicile is to be decided by the land-director.

Par. 3. The privilege of entire or partial free-places is granted only for the third and fourth classes, for the purpose of making trial treatments, in accordance with the entire or partial ability (monetary) of the patients, or of their relations, etc.:

(1) In favor of such insane patients, who have their domicile in the community of the Rhine province, or are entitled to the care of the Rhenish general committee on charity (Landarmenverband).

(2) For patients belonging to other provinces of the Prussian State or to foreign countries, in the case that they are to be temporarily cared for by the Rhenish communities, so long as no indemnity claim for the treatment and other expenses can be made valid.

The free-places are granted by the land-director, for the space of two years only, and under the supposition that, according to the acknowledgment of the respective asylum director, the patient has been brought to the establishment within the first six months after the appearance or reappearance of his insanity.

Entire or partial free-places may be granted to patients, by the provincial commission of administration, only in extraordinary cases.

Par. 4. In the cases mentioned in Par. 3, second section, the respective community is obliged to watch the interest of the province in every suitable manner, eventually by bringing a law suit, in order to effect the due payment of the expenses for treatment, etc., or the immediate removal of the patient to the care of the proper committee on charity outside of the Rhine province, who are bound to take care of the patient; or that the insane may be brought back to his domicile, if that is in a foreign country; otherwise the free-place already granted may be withdrawn by the provincial commission of administration. The expenses for treatment, etc., are to be paid without discount to the respective asylum.

Par. 5. Application for the reception of insane persons into a Rhenish insane asylum, either to try to effect the cure or simply for the sake of treatment, must be made to the directors of the establishment.

Par. 6. When a civilian patient is to be received into the normal class, the application for reception must be made by the home police office, accompanied by the following documents:

- (1) A medical question-paper duly answered.
- (2) The exact personal history stating place of birth, birthday, religious profession, domicile, occupation, name of the patient, name of husband or wife, occupation and domicile of his parents.
- (3) An agreement, in which the respective communities bind themselves to remove the patient within three weeks after a request to that effect has been made by the director of the establishment, or to be willing to have the patient be returned to them at their own expense, if they have not removed him within the appointed time.

(4) A paper, stating their liability for any expenses of treatment (if the patient has not a free-place granted to him, or if the expenses are not paid from the estate of the patient or by his relatives or other persons liable for his support).

Concerning the reception of a soldier, from the sergeant-major downward, into a normal class, such applications for admission must be made by the respective military authorities, accompanied by the above mentioned documents, but with the special understanding, that the military authorities shall bear the responsibility of removing the patient and paying all expenses of treatment until the patient is discharged or removed, even in case the patient should in the meanwhile be dismissed from the army.

Par. 7. For patients, who are to be received in the first, second or third class, the application for admission must be accompanied by the same documents as quoted in Par. 6.

Par. 8. The request, for entire or partial free-places in the third or fourth classes, must be directed to the land-director of the Rhine province.

Par. 9. The patient shall not be admitted into a provincial insane asylum, until the directors of the establishment have declared themselves willing to receive him.

Since curability decreases with every additional month of the disease, the greatest possible haste is commendable in the admission and transfer of the patient to the asylum. Particularly, persons applying for admission must not wait until the request for a free-place is decided, since such decision takes place only after the admission and depends in a great degree on charity.

If the patient is not committed to the establishment within fourteen days after the admission has been granted, the directors of the establishment shall be informed of the reasons for such delay and their further decision shall be received, before the patient is brought.

Par. 10. When the directors of the establishment have declared themselves ready to receive the patient, he should be brought to the asylum, on week-days, or only in cases of emergency on Sundays and holidays, and not after 10 p.m., and as humanely as possible, but rather by means of force than by misrepresentation.

Any policemen needed for the transfer must be clad in civilian's clothes, according to the regulation of October 28, 1868.

It is desirable that the patient be accompanied by a relative, who is intimately acquainted with the past history of the patient and the phases of the malady, and therefore liable to furnish the physicians with any desired information.

Par. 11. (Treats of the apparel of the patient.)

Par. 12. Payments must be made quarterly in advance.

When the patient is discharged before the quarter is up, the amount to his credit must be refunded to him or to his representatives.

Par. 13. When patients have been brought to the asylum otherwise than by the public authorities of the province, the directors of the establishment are entitled to demand guarantee for payment of all expenses.

Par. 14. In case of the decease of a patient of the normal class in the establishment, the community, who have made themselves responsible for the patient's expenses, must pay the cost of burial, even in case where a free-place has been granted, unless these expenses should be borne by the relatives, etc., of the patient. A person who has applied for the admission of the patient into the first, second, or third class (Par. 7) shall bear the expenses of burial.

Par. 15. Letters, money and packages for patients must not be delivered directly to the latter, but to the directors of the establishment.

Par. 16. Only with permission of the directors of the establishment may any visitors be admitted, and they should not come on Sundays or holidays, and should if possible obtain a written permit from the director.

Par. 17. The patient should not be taken away from the establishment on a Sunday or a holiday.

These regulations are approved on the 24th of April, 1879, and come into force on the 1st of July.

(AIX LA CHAPELLE.)

Police regulation for the District of Aix la Chapelle, concerning admission into insane asylums, and the police control of the State asylums. Given April 8th, 1879.—(Medicinal Gesetzgb., 1879, p. 180.)

Referring to Par. 11, of the law concerning police administration, March 11th, 1850, it is resolved, with respect to the reception into insane asylums and the police control of the same, for the district of Aix la Chapelle:

1. No one shall be received into an asylum without a written order (which shall be issued only when public interests and security demand it); or at least, the written assent of the police authorities of the domicile of the person to be received, or of the place where the patient has been arrested in behalf of public security, or in consequence of a petition of his relatives; the person to be received must also be furnished with a certificate of a physician, officially approved by the respective police officers as being reliable and able to judge the condition of the malady of the patient, stating also the reasons which have induced the physician to decide the patient insane, and the necessity or desirability of the reception of the patient into the asylum, and the statement whether the patient is considered curable or incurable.

2. When the commitment of a patient is caused or permitted by the police authorities, other than those of his domicile, said police authorities must immediately notify the police of the patient's domicile, who must immediately notify the relations of the patient.

3. Notice must be given within twenty-four hours after the commitment of a patient into an asylum, by the director of the same, and the police authorities who have demanded or assented to the reception of the patient, to: (a), the police authorities of the place where the asylum is situated, unless they should have caused or assented to the commitment; (b), to the chief justice of the district in which the domicile of the patient is situated.

This latter report must be accompanied by the certificate of the physician and the demand or assent of the police which caused the commitment of the patient.

4. When it is desired that the patient should be placed under guardianship, but the court refuses to assent to such an arrangement, the patient shall not be retained in the asylum against his will.

5. In asylums for the treatment of incurable insane only, no one shall be received who is not pronounced incurable by an

officially approved physician who is considered reliable by the police authorities of the domicile.

6. The directors of the establishments must report, within twenty-four hours, the discharge or decease of the patients to the police authorities of the place where the asylum is situated, also to the police authorities of the patient's domicile, also to the judicial authorities quoted under Par. 3.

7. The directors of the establishments must keep a journal, which, in respect to patients received, shall show correctly: number and date of admission; the patient's full name, age, occupation and domicile; name and domicile of the physician who has attested to the mental malady; the date of the certificate as to curability or incurability; the police authorities who have ordered or assented to the reception, and the date of such written request or assent; the authorities who have been notified of the reception by the directors, and when; the date of discharge; the authorities who have been notified of the discharge or death of the patient, and when; any other important items referring to the patient, particularly relating to his commitment to guardianship.

The important documents must be put on file and registered in the journal and preserved even after the discharge of the patient.

8. The directors of the establishment must return annually, on the 1st of January, to the state attorney and to the police authorities, within whose jurisdiction the establishment is situated, a list of all persons treated there as mentally afflicted, or otherwise taken care of; on the 1st of July a list of any alterations that have taken place.

9. The directors of the establishment must at any time, upon request, answer any interrogatories of the government officials or police authorities; must submit at any time to inspection by the police authorities, which may be undertaken from time to time for the sake of observation, and must be ready to lay before them at any time all important documents, particularly the journal mentioned under Par. 7.

10. The police authorities within whose jurisdiction the establishments are situated, must at proper intervals of time inspect these establishments, and must state officially, whether the prescribed regulations are carried out and state the results

of their inspections to their superiors; in case of any suspicion of illegal acts, the same must be reported immediately to the state attorney.

11. In hospitals which are not intended for the reception of the insane, such persons may be received only in case of great emergency and must be retained only so long as is necessary to complete preparations for their commitment elsewhere.

The directors of the respective hospitals must report the presence of an insane patient immediately after his reception, to the police authorities where the establishment is situated, and also to the police authorities of the domicile of the patient.

Any act committed by the directors contrary to the above regulations shall be punished by a fine not beyond thirty marks, or by corresponding imprisonment.

GENERAL ORDER FOR THE GERMAN EMPIRE.

Concerning the discharge of insane prisoners (Justizministerialblatt, vol. 3, Nov. 1882, p. 325.)

Whereas, it has repeatedly occurred that a prisoner, who was in jail pending the investigation of his case, having become exempt from judicial prosecution on account of insanity, has been discharged from prison, though dangerous to public peace, without having at the same time been placed under the supervision of the police: hence, to prevent similar occurrences in future, the minister of justice has determined, that, when a prisoner must be discharged from prison on account of insanity, this cause of discharge is to be expressly stated, in the respective order of the court or of the proper authorities, and that the manager of the prison shall deliver the prisoner to the police authorities of the place where the prisoner is discharged.

An exception to this may be made only when the deranged person upon his discharge is committed to his family or guardian, and when, according to the judgment of the manager of the prison, any danger for the discharged person as well as for others is obviated.

LAWS OF MARCH 8TH, 1871.

Par. 31. The land committees on charity shall bear the ex-

penses of public charity, which is caused by the care of insane, idiots, deaf-mutes, decrepit and blind.

Publication of March 8th, 1873, referring to an amendment to Par. 33, of the law of October 19th, 1860: stating that, for the commitment of an insane person who is dangerous to the community, the certificate of only one physician instead of two, shall be needed. (No. 1169 Strafprozeßordnung, February 1st, 1877.)

Par. 81. In order to give an opinion concerning the mental condition of an accused criminal, the court may order, upon the demand of an expert and of the defendant's counsel, the accused to be committed to a public insane asylum and be there observed.

Such confinement in an insane asylum must not exceed six weeks.

FORMULARY OF QUESTION-PAPER FOR THE MEDICAL CERTIFICATE.

(Communications concerning the patient or his family, that are to be known only by the director of the establishment, the physicians must immediately forward to the director of the land-asylum into which admission of the patient is sought.) This paper must accompany the petition for reception of a patient into a land-asylum of the "Provincial Alliance of Brandenburg." (Reglement für die Landirrenanstalten des Provinzialverbandes von Brandenburg vom 13 März 1879, Par. 14, No. 1.)

The patient's christian and family name, ; position or occupation, ; place and date of birth, ; last residence or place of abode (hospital, poorhouse, asylum or prison), ; to what denomination this patient belongs, ; is he or she married, single, widowed, divorced, and since when ?

Question 1. Who and where are parents of the patient, and what are their circumstances? . Are they related to each other, and in what degree?

2. Have any mental or nervous diseases (and what kind) or mania-a-potu, or attempted suicide, or any striking characteristics, or talents been observed in the patients? (a)

Father ? ; mother ? ; (b) grandparents ? ;

paternal or maternal uncle or aunt? ; (c) brothers or sisters?

3. Was the patient born out of legal wedlock?

4. Are any other children of the patient living or dead, and how many, of what age and sex? . Are or were the children subject to diseases of the mind or nervous system, and what?

5. How did the patient behave in his childhood and during the period of his physical and mental development? (Describe his physical and mental development, the diseases of childhood and growth that he has been subject to, his mental gifts, the nature of his mind, his education, instruction, etc.) With female patients there is also to be stated:

5 a. Is the patient mature, and since when is she subject to menstruation, and are such attacks regular?

6. What was the behavior of the patient during his sanity? Was he influenced by his calling, married condition, misfortunes, excessive drinking, gambling, sexual excesses, or by any other adverse circumstances? Has the patient been in conflict with laws and when? Punished?

Concerning female patients there must be stated also:

6 a. Has the patient given birth to children? How often and when? How did cases of pregnancy, child-birth, etc., end?

7. From what diseases has the patient been suffering since maturity? Has he ever suffered from syphilitic diseases, and of what kind, and with what result, and how treated? Do any bodily malformations exist and of what kind? Has the patient during his life received injuries on his head?

8. Has the patient been deranged before? When and how often has he already been in an establishment? When, and with what result?

9. When were the first traces of the present mental disease observed? Of what kind were they? (Change of humor, inclinations, habits, character, language, manner of writing, manner of walking, while asleep or awake, etc.?) What is considered to be the cause of the disease?

10. What is the further cause of the disease? (Exact description of the cause of development of the same, relating to all abnormal physical and bodily changes.)

11. How does the disease manifest itself now? Present state (nature of the entire organism in all its relations, circu-

lation, strength, sleep, etc.; result of the physical tests of the organs of the chest and abdomen; pregnancy? Hernia?

Cases of paralysis (partial or entire), of speech, of the power of locomotion, of the ability to write, of the ability to contract or expand the pupils of the eyes? Insane ideas, hallucinations, weariness of life? Inclination to hurt or kill one's self, or to be violent toward persons and things, tendency to deprive one's self of nourishment, etc.?

12. Form of the mental disease? (a) Simple mental disease (melancholia, mania, insanity)? (b) Mental paralysis accompanied by epileptic fits? (d) Acquired imbecility?

(e) Innate idiocy? (f) Delirium tremens, alcoholism?

13. (a) Is the disease considered curable, or is there hope for great improvement? (b) Is the patient dangerous to himself or to others? Upon what kind of utterances or actions of the patient is such a supposition founded? What remarks are founded upon the personal observation of the physician. What remarks are founded upon the communications of others and who are these other persons? [When the questions under (a) and (b) are answered in the negative]: (c) Why can the patient not be sufficiently taken care of at his present place of abode?

14. Has the patient been under medical treatment before?

When and with what success? How has the patient been affected by his surroundings?

15. Do any infections or contagious diseases rage at the place of abode of the patient at the present time (small-pox, cholera, dysentery, etc.)?

I, the undersigned, testify under oath the correctness of the preceding statement according to my own observation and the credible communications received the th 18 .

Approved,

, physician.

CERTIFICATE OF THE HOME POLICE OFFICE.

Concerning the personal and monetary affairs of the diseased persons named below, whose admission is desired into the land insane asylum of the provincial alliance of Brandenburg. (Reglement f. d. Landirrenanstalten d. Prov. vrb. v. Brundenburg v. 13 Marz 1879, Par. 14, No. 2).

1. Christian and family names.
2. Date of birth.
3. Place of birth: district.
4. Place of abode: district.
6. Position or trade.
7. Religious denomination.
8. Regarding his family (single, married, widowed, divorced).
9. Christian and family names of the husband, or wife, of parents (even if dead or divorced).
10. Name, position or occupation and place of residence of the nearest of kin known (parents, independent children, brothers and sisters, etc.; state degree of relationship).
11. Place of abode of the guardian or foster parents.
12. Monetary affairs of the patient, in respect to wife or husband or parents.
13. Circumstances that require the commitment of the patient into the class of persons partly supported by the state, or province or community. (Par. 9-27, 29, 30, d. Reichsgesetzueb den Unterstuetzungs wohnsitz v. 6 Juni 1870.)

Are any contagious diseases raging at the place of abode of the patient at the present time (small-pox, cholera, typhus, dysentery, etc.)?

Papers accompanying the from , who agree-
ably to the joint order of the land-director of 18 ,
accompanied by 1 2: who is going to the land
insane asylum at .

The authorities of the asylum are requested to give to the above-named companions of the patient a certificate stating the reception of the patient.

List of the articles of apparel in the possession of the patient
etc. 1 2 etc.

TRANSLATION AND EXTRACT FROM LETTER FROM HALLE,
PRUSSIA.

Adressed to Regierungsrath Lange }
of the German Legation. } HALLE, PRUSSIA.

APRIL 25, 1883.

Highly honored Regierungsrath:—

You will not consider me very polite, for not being able before to-day to answer your kind letter of February 27th, but I hope you will pardon me when I tell you that the duties of my new position, Mayor of Halle, so entirely take up my time, that I had to wait for an opportunity to answer Mr. Mussaeus's questions with any degree of explicitness.

The main question: "Is there any general body of insane laws in Prussia?" I have to answer in the negative. It is rather the case that the whole body of insane laws have formed themselves out of the existing legal practice. This practice, under the influence of the autocratic legal bodies (provincial and communal diets) of the different provinces, and in consequence of the former want of union among the German States (Hanover, Hesse, etc.) has assumed different forms in different points. As it is hardly possible, without making very searching, special studies, to give a representation of the present state of affairs, and I must confine myself, to touch only a few main points. I advise Mr. Mussaeus, in order to find out the different particulars, to write to the chief Land-Directors of the provinces of East and West Prussia, Brandenburg, Pomerania, Silesia, Sleswick-Holstein, Saxony, and the Rhine Provinces; to the general directors of the municipal states of Cassel and Wiesbaden and Frankfort on the Main; the State Directors of Posen and Westphalia: to send him their regulations, orders and statutes about insane matters, which are not generally published.

1. In general, I can answer to the first of Mr. M's questions, viz: "What formalities are necessary to place an insane person in an asylum?" In this way: the difference is between incurable, curable, and dubious patients. For the reception of incurable patients, after they have been placed under legal guardianship, in consequence of paragraphs 593, f. f. of the "Government

Civil Rights Regulations" "(Reichs-Civilgesetzordnung)" it is necessary that the prayer for the reception be made by the guardian, or other legal representative (father, etc.). This does not exclude, that, in cases of common danger, a patient may be temporarily placed in an asylum without such prayer. Curable patients are received according to the regulation statutes of most asylums upon the request of a family member, or other person that is intimately acquainted with the patient, even if the person has no legal authority over the same, provided the local police give their consent. If the sickness becomes protracted or incurable, or the circumstances of the patient demand it, a guardian is appointed, who has to pray for the final reception of the patient into the asylum. In every case, for the reception of curable or incurable patients, a physician's testimony is demanded, concerning the existing mental disturbance, together with an explicit history of the case, and a full account, signed by the municipal authorities, concerning the family relations and other circumstances of the patient.

The question concerning the surveillance of the public and private asylums is to be answered by the fact, that a general right of supervision rests with the chief police authorities (governments, municipalities, etc.), who therefore are entitled to have the asylums inspected by their appointed doctors and commissioners. In practice, this authority is exercised only upon private asylums. As to public asylums they are generally inspected directly by persons appointed by the minister of the interior, and are generally confined to making reports of the building regulations, appointments of doctors and any other important acts. Directors and owners of private asylums, in accordance to paragraph 30 of the Reichsgewerbeordnung, must have the consent of the highest administrative body (government) which can be denied, when facts exist which prove the petitioner to be unable to carry out the duties that would ensue.

Third question: "Under what circumstances are cured insane dismissed?" I can answer concisely to the fact that in this respect the official opinion of the curator will decide, whether the condition of the patient allows his dismissal. Against the opinion of the legal representative, no person must be retained in the asylum.

Concerning incurable patients without means, (paupers), there exist no general regulations. In answer I will say, that some provinces receive the same gratis, into their asylums, or raise the incurred expenses by means of a tax, equally distributed between the general income of the provinces. Other provinces have a certain number of free-places, and when these are all occupied, the community to which the pauper belongs must guarantee full payment of the regulation prices. Other provinces will receive paupers only, after the respective communities have promised to bear the expenses. The provinces which have free-places, make a regular difference between patients who endanger the public peace, and harmless ones, and will receive the former in preference. In general I may make the statement, that by far all incurable insane have been received into the asylums; more than half of them are under the care of their home communities, where, except in the larger cities, very poor provisions have been made for their individual necessities. These mentioned circumstances are felt as a great evil, and very lately the provincial authorities have been very anxious to improve this deplorable condition by enlarging their asylums and increasing the number of them.

Answer to question 5th. Criminals who have committed their crimes during insanity, according to Par. 51 of Penal Code (Reichs strafgesetzbuch) are not liable to any judicial prosecution; they are generally, through the intercession of the police court as described under section 1, put into the asylums, where they are retained until eventually cured.

Answer to question 6th. If a criminal while serving his term becomes insane, he will be treated differently in different provinces. In some provinces such insane are received into the asylums, and the prison authorities are responsible for their expenses until eventually pronounced to be incurable. After incurability has been established, the term of imprisonment ends, and the former criminals are classed among the incurable insane, and are then sent back into their home communities, or, as mentioned under section 4, are permitted to remain. Some provincial administrations (Hesse Cassel) are, by particular regulations, freed from the necessity to receive criminals into their own asylums; but they are compelled to place them

in other asylums or hospitals, in order to try to effect a cure. Other provinces again entirely refuse, on principle, the reception of any criminals into their asylums (Sleswick-Holstein) and leave to the State the immediate care of such; in such cases, insane criminals are placed in the hospital department of correction houses or penitentiaries. Against the forcible detention of mentally sound persons in the asylums, a guarantee is found in Par. 239 of the criminal code (Reichstrafgesetzbuch), which appoints, for illegal detention or deprivation of liberty, a penitentiary term of not more than ten years; likewise if such illegal deprivation of liberty is prevented by the privilege of investigation of the chief administrative authorities.

Persons who are prosecuted on account of misdemeanor or crime, and concerning whom it is doubtful whether they are to be considered responsible for their acts, according to the precepts of the government criminal and civil code (Reichsstrafgerichtordnung) Par. 91, ff, are placed in a public asylum in order to observe their mental condition. After this, the supervising physician has to pass his opinion, stating whether the patient, at the time of the commission of the deed, was in a condition of mental disturbance strong enough to interfere with his volition, or whether he is at present to be considered as irresponsible.

According to the result of such examination, which does not exclude the appeal to higher authorities (chief medical colleges), the accused will either be committed, acquitted, or the legal authorities dispense their judgment altogether, until the accused shall be pronounced mentally sane. The length of detention in the asylums should regularly not exceed six weeks, but may be prolonged.

SCHNEIDER.

BADEN.

Regulations for the Insane Asylum of Heidelberg, October 12, 1878.

His royal highness, the grand duke of Baden, issues the following proclamation through the grand ducal ministry of the

interior, under date of October 10, 1878, No. 487, relating to the insane asylums of Heidelberg.

Karls-Ruhe, the 12th of October, 1878.

Grand Ducal Ministry of the Interior.

STOSSER,
vdt. Hund.

SECTION 1.—PURPOSE AND OBJECT OF THE ASYLUM.

Par. 1. The purpose of insane asylum at Heidelberg shall be to cure or treat deranged persons of both sexes, and also to give instruction in psychiatry.

Par. 2. Admission to the asylum shall be granted under the regulations of Par. 8 of this statute, to:

(1) Patients from the districts of Heidelberg, Mosbach, Mannheim, and Karls-Ruhe, whose treatment shall be paid for entirely or partially out of the funds of the community, district, or state.

(2) Inhabitants of the district who pay for themselves.

(3) Foreigners, if all the space is not occupied by natives of the district.

Par. 3. The rooms of the asylum designed for the accommodation of the patients shall be strictly separate, according to the sexes of the patients.

Par. 4. The asylum shall be supported:

(1) From the payments made by the patients.

(2) From the additional sums paid out of the state treasury.

Any gifts to the asylum shall be employed according to the will of the donors, or, if they do not point out any special application of their legacies, such sums shall be added to the capital funds of the asylum, and the interest of the same shall be used for improvements, etc.

SECTION 2.—SUPERVISION AND ADMINISTRATION OF THE
ASYLUM.

Par. 5. The immediate supervision of the asylum is confided to the academic sanitary committee; the general supervision belongs to the ministry of the interior.

Par. 6. The asylum is administered by the first medical official, who also guides the instruction of the medical students. In addition, the following officials and servants are appointed for the asylum:

(1) For the treatment of patients, the number of physicians necessary. The eldest assistant physician shall always be the representative of the director, unless other arrangements have been specially made.

(2) An administrator's assistant to aid the administrator of the academical hospitals in the care of the economical affairs, etc.

(3) For the immediate supervision and care of the patients, a chief guardian or chief stewardess and the necessary number of assistant guardians and stewardesses.

Every employe shall be particularly instructed in regard to his duties.

Religious services, and any religious ceremonies with single patients, shall be held by clergymen of the city, with permission of the director.

Par. 7. Annually, an inspection shall be made by a commissioner of the ministry of the interior, assisted by a physician, when all necessary inquiries shall be made as to whether anybody is retained as a patient within the asylum, who ought to be discharged.

Both officials shall make a joint report to the ministry of the interior of the result of their investigation.

SECTION 3.—REGULATIONS FOR THE ADMISSION OF PATIENTS.

Par. 8. Those admissible are:

(1) Any one that suffers from a curable mental disease.

(2) Any one who is attacked by an incurable mental disease which renders him dangerous to himself or others, or offensive to public decency, or entirely helpless.

Par. 9. Those not admissible are:

(1) Idiots, weak-minded persons, and cretins.

(2) Persons subject to fits, who are not at the same time, mentally affected.

(3) Deranged persons, who are afflicted with highly disfiguring diseases.

Par. 10. The admission of patients takes place generally only upon request of the nearest relative or, when the patient is a minor or under guardianship, of the guardian.

The request must either be submitted in writing, to the district physician of the domicile of the patient, or it must be

placed on file. It must contain the following points of explanation :

Whether the persons who seek the admission of the patient are ready to pay his board out of their own means, and into what class of treatment they wish him to be received ; who is responsible for the payment and who represents the patient in his relations with the asylum ; or, if the applicants do not consider themselves responsible for payment, who in their estimation, under the existing laws, is bound to take care of and represent the patient.

Such request must be accompanied by documents, as described in the regulations of the Rhine province of Prussia.

Par. 11. The district authorities must forward the request for admission together with the accompanying document to the directors of the asylum, and must add their stated opinion as to :

- (a) Whether the patient is admissible.
- (b) Whether he will be paid for, and by whom.

Par. 12. The transmission of the papers requesting admission should not be delayed by any arrangements of the nature just described, but the arrangement should rather be concluded after the admission of the patient.

Par. 13. The directors shall examine the documents sent to them and shall try to have everything added which seems to be necessary to their completion, and they shall send the documents to the ministry of the interior, with the further information as to :

- (1.) Whether the patient is to be received, and into what class of treatment.
- (2.) Whether the patient will be paid for, and by whom.

Par. 14. In cases of emergency the directors may arrange for the reception of patients whose admission is desired by their relatives, without the usual formalities. In the request addressed to the director, the disability must be particularly stated and certified by an approved physician or by the proper legal authorities.

Par. 15. The ministry will decide concerning the admission of the patient and the class of treatment into which he is to be received.

Par. 16. A person whose mental derangement makes him

dangerous to himself or others, or offensive to public decency, may be received without the request of his relations or guardian. In such cases, the court of the district of the domicile shall take the testimony :

(1) Of the persons who are able to give information concerning the condition of the patient.

(2) Of the representatives of his community as to whether the patient cannot be cared for elsewhere than in an asylum. All these papers must be forwarded to the directors of the asylum, accompanied by the question whether they consider the patient admissible.

In case the directors answer in the affirmative, the district court shall decide concerning the admission. This decision is to be at once communicated to the directors of the establishment, and to the ministry of the interior.

Par. 17. Even where the admission of the patient has been ordered according to the preceding paragraph the class of treatment into which the patient shall be received must be determined by the ministry of the interior.

Par. 18. All papers concerning the admission, shall be sent to the ministry of the interior, who shall examine them.

These papers shall be returned by the ministry of the interior to the directors of the asylum as soon as practicable.

Par. 19. The request for the admission of a foreigner must come from his nearest relatives or from his guardian. The written request must be certified by the proper state authorities.

It shall be accompanied by :

(1) A statement showing the patient's home, age, religion, and occupation.

(2) A history of the malady, written by the physician, wherein shall be stated particularly, whether and why the malady is considered curable, since curable patients are received in preference to incurable ones.

(3) A bond guaranteeing the payment of all expenses.

The ministry of the interior may, under peculiar circumstances, excuse the fulfilment of one or more of these requests.

If such insane foreigner has his abode within the grand duchy, and is dangerous to himself or to others, or offensive to public decency or entirely helpless, the ministry of the interior may officially order his admission into the asylum, without waiting for any request from his relatives or guardian.

Par. 20. Petitions for the admission of foreigners must be sent to the directors of the asylum, by them to be forwarded to the ministry of the interior, which latter department will decide concerning the admission and the amount to be paid by or for the patient.

Par. 21. All officers and officials who have to do with the admission of patients are instructed as follows:

(1) They shall advise the relatives of the patient that the sooner after the appearance of the malady the patient is placed in the care of the asylum, the greater is the probability of his cure.

(2) With this fact in view, all proceedings connected with the admission of patients shall be despatched as speedily as possible, especially if the patients are considered curable.

(3) The officials shall carefully investigate, when application is made for the admission of incurable patients, whether the patient is really dangerous and helpless, and therefore admissible, and whether the home care of the patient is clearly insufficient. Precise information on these points is desirable, in order that the asylum may not be unnecessarily crowded with incurable patients, as such a result would interfere with its original object, namely, to be especially an asylum for cure.

(4) Whenever an insane person, who has no relatives, or whose relatives do not seek his admission to the asylum, is dangerous to himself or to others, or offensive to public decency, the above-named officials shall report the fact to the proper authorities, so that, if necessary, the latter may officially interfere.

Par. 22. If a case is of such urgency that the immediate admission of the patient into the asylum is considered necessary or proper by the authorities, such patient may be temporarily received with assent of the directors, and arrangements for his permanent admission may be begun at the same time.

SECTION 4.—TRANSFER TO THE ASYLUM.

Par. 23. When the admission of a patient has been approved by the ministry of the interior, the directors must communicate the fact to the district authorities, who, with the co-operation of the mayor of the community or the relatives of the

patient, will thereupon arrange for his immediate transfer to the asylum. Traveling expenses will be paid out of the means of the patient.

If the patient is without means, the proper committee on charities shall bear such expenses, and in doubtful cases, such committee must advance the necessary amount.

Par. 24. Every patient shall be accompanied by a reliable person who is acquainted with the circumstances of the patient, and is able to give information concerning him to the physician of the asylum.

Par. 25. The apparel of the patient must be suitable to his social condition.

Par. 26. The family physician of the patient or the authorities that send him, must give his companion a sealed letter addressed to the directors of the asylum, containing the name of the patient and his companion, the date of their departure, and a list of the effects which the patient brings with him.

The directors shall record the admission of the patient and deliver a certificate thereof both to the companion of the patient and to the proper legal authorities.

The fact of admission shall also be reported by the directors to the ministry of the interior.

SECTION 5.—CARE AND TREATMENT OF THE PATIENTS IN THE ASYLUM.

Par. 27. Concerning their diet, the patients are subject, while in the asylum, to the regulations of the directors. The instructions given the servants, a thorough supervision of the asylum by the officers and by the higher legal authorities ensure a correct and humane system of treatment.

Par. 28. The watchful and kind treatment of the patients is the first duty of those employed in the asylum.

Strictly home rules regulate the discipline of the asylum and the domestic life of the patients.

Par. 29. Patients are classified in three different "classes of treatment," and are treated accordingly in regard to board and lodging.

All patients are, however, equally entitled to all the facilities for an effectual cure that may be at the disposal of the physicians and employes, and such facilities must be afforded in

equal measure to every patient. Patients of the first class may, on the request of their relatives, also be provided with some of the luxuries of life, if it is not inconsistent with the purpose of the asylum.

Par. 30, 31, and 32, treat of the payments to be made by the patients; and direct that persons without means shall be paid for by the community. (See the similar regulations for Brandenburg and the Rhine province.)

Par. 33. Committees on charity or relatives of the patient, who have very small funds at their command, may be granted six months' treatment for their patient free, if such patient is considered curable by the directors of the asylum, and if the admission has been sought without delay and in due form.

Par. 34. Besides this, the directors have at their command four free-places which are to be filled in the interest of science and instruction. Requests for the granting of a free-place must be addressed to the directors, accompanied by a complete history of the patient's malady. The forms for admission in such cases are the same as for other patients.

Par. 35. Foreigners shall be received only in the first and second classes. In all cases, they shall be charged more than natives.

Par. 36. No abatement of the cost of treatment shall be granted in consideration of work done by the patients, if such work has been done simply as a means of cure.

Par. 37. The class of treatment in which a patient is placed on his admission may be changed at any time with the consent of the authorities who determined it in the first instance.

Temporary deviation from the treatment prescribed for a certain class may be ordered by the directors, whenever they consider the change expedient; but such temporary change shall not have any influence upon the amounts to be paid for the patients.

Par. 38. Payment for a discharged patient shall be collected only up to the day of his discharge; for one who has died in the asylum, up to the time of his death. The expenses of burial are carefully estimated, and must be paid for in the same manner and by the same parties as the other expenses.

Par. 39. The intercourse of the patients with their relatives or with the world in general, by means of letters, visits, etc., shall in every case be subject to the approval of the directors.

Par. 40. The directors shall duly consider any oral or written inquiries concerning the health of the patient made by persons and authorities entitled to make them. Even where no inquiry is made the directors shall give information to the relatives of each patient once a year, and shall promptly communicate any very extraordinary events.

Par. 41. Strangers are admitted into the patients' rooms only with the permission of the director.

SECTION 6.—DISCHARGE FROM THE ASYLUM.

Par. 42. No patient shall be retained longer than necessary. Improved patients, and such as have become harmless, shall be dismissed by the directors, on trial; cured ones, finally.

Relatives and the respective communities shall remove any patients, that may be reported to them, by the directors, as fit to be dismissed; or they shall communicate to the directors their objections. If the directors consider the objections unfounded, the question shall be decided by the parties that caused the commitment of the patient.

Par. 43. Requests for the transfer of a patient to the asylums shall be made by the directors to the ministry of the interior.

Par. 44. In order to avoid the relapse of a patient, the directors shall furnish directions concerning the treatment of persons discharged on trial, and the committee for the aid of discharged patients shall also render every assistance in their power.

Par. 45. The relations, guardians, or proper authorities, who have caused the commitment of a patient to the asylum, shall inform the directors concerning his health and behavior within a month after his arrival home, and after that, at intervals of three months. If after a year the recommitment has not become necessary, the patients shall be finally discharged by the directors.

Par. 46. Patients may be recommitted, before the time of their discharge on trial has expired:

(1) Upon request of the district physician, when the relatives give their consent.

(2) Upon order of the legal authorities of the district, in accordance with Par. 16. The authorities shall advise in such cases the directors of the asylum of the intended recommitment.

Par. 47. The relatives of the patient, who have caused his admission, may at any time demand his discharge. Such request shall be forwarded through the district authorities to the directors.

Par. 48. Upon the discharge of a patient the directors shall decide whether he is to be accompanied by other persons. The patient shall receive from the directors a certificate of discharge, and the necessary traveling expenses. The directors shall report the discharge to the authorities who have committed the patient, and the latter shall advise the directors of the arrival of the patient at his home.

Par. 49. When a patient dies in an asylum, the directors shall report the case to the authorities of the district. The burial shall be arranged by the directors with reference to the social position of the deceased; the date and hour of the burial shall be communicated to the relatives.

Par. 50. Any final or temporary dismissal, or any recommitment of patients, must be communicated by the directors to the ministry of the interior.

Par. 51. The preceding regulation shall become a law on the day of publication (Ges.-u. Verordn.-Bl. p. 159). (Forms for certificates are substantially the same as those for Brandenburg).

Regulations of October 12, 1878, concerning contributions for the expenses of maintaining the patients placed in the insane asylum of Heidelberg. In reference to Par. 30, of the preceding regulation, it has been further ordered, that the charges for native patients having means, shall be, for the first class: 7 marks daily; for the second class: 5 marks daily; for the third class: 350 to 450 marks annually.

The charges for foreign patients are to be regulated in each case by the ministry of the interior.

(Ges.-u. Verordin.-Bl. p. 172).

Regulation concerning the insane not placed within state asylum, October 4, 1879.

As an amendment to the regulation of March 22, 1863, No. 3508 (Centralverordnungsbl., p. 27), the following is issued:

Par. 1. Once in every five years, in the latter half of the month of September, the mayor shall make out a list showing the personal circumstances, the manner of treatment, etc., of

the deranged and epileptic persons in the community, who are not in a hospital or asylum.

(According to form in Appendix A.) Three copies of the lists shall be made, two to be sent to the district authorities, the third, to be kept on file in the office of the mayor.

The lists shall contain: 1. The deranged and epileptic persons that reside within the community, whether belonging to it or not, who are not in the state asylum nor its branch offices. 2. The deranged and epileptic members of the community, that are taken care of in a branch asylum.

It makes no difference, whether the same have been in an asylum before or not, whether they are placed under guardianship or not.

Par. 2. The district authorities shall send two copies of the list, after examination, to the district physician. The latter shall examine the different lists, cause the necessary corrections to be made, and compose from them a general list, comprehending the whole district, according to the forms added under (b), and send these, together with copies of the special lists, to the ministry.

In his report, the district physician shall communicate his observations and investigations concerning the occurrences of mental diseases and the care of insane in his district, and all arrangements relating thereto.

When the lists indicate insufficient care of the insane, the district physician shall investigate the cause, and, with the aid of the district authorities, endeavor to abolish the same.

The cause of epidemic occurrences of mental diseases, shall be investigated by the district physician, who shall report to the ministry the possible means of prevention.

Par. 3. The grand ducal ministry of the interior shall forward the special lists, after their examination, to the statistical bureau of the grand ducal ministry of commerce.

The statistical bureau shall compose from the lists, registers for every district, and a general register for the whole country, and communicate these to the directory of the hospitals and forward them officially, together with their remarks, to the ministry.

Par. 4. In the years in which no complete lists are made, the mayor shall report in the latter half of September in such

years to the district authorities, whether any patients, and how many, of the kind described in Par. 1, have been received or discharged since the completion of the last list and report, and how they are cared for.

The district authorities shall forward this to the district physician who shall report to the ministry the respective admissions and discharges.

Par. 5. The local and district authorities are advised to do all in their power to improve the legal treatment of the insane.

Par. 6. In force since 1880.

RUSSIA.

CONCERNING THE DISCHARGE OF RECOVERED CRIMINAL INSANE.

(Criminal Code 1847.)

Art. 99. Among the causes in consequence of which a crime or misdemeanor is not considered punishable, belong idiocy, insanity, and attacks of sickness which produce confusion of mind or entire absence of consciousness.

Art. 100. An idiot is not accountable for a crime or misdemeanor, when there is any doubt, in consequence of his mental condition, that he realized, at the time of the action, the unlawfulness and nature of his deed.

Remark 4. Idiots or insane persons who have committed murder, or attempted murder or suicide or an incendiary crime, shall be placed in an insane asylum, even when the parents or relatives are willing to undertake the supervision and treatment of the patient at their own home.

Insane criminals placed in an asylum shall not be discharged without permission from the higher authorities.

If, however, it becomes evident, in the course of time, that such persons have entirely recovered, and that within two years no mental abnormalities have been observed, they may, after a repeated and searching examination, be dismissed from the asylum, and their estates be freed from attachment, according to the existing civil laws.

This period of observation of two years for recovered patients may be abridged, when special reasons exist and there is sufficient security that no danger can arise therefrom.

A recovered idiot may be delivered to his relatives, when they bind themselves to keep him under close surveillance and, in case of the reappearance of morbid phenomena, to return him, using the necessary precautions, to the insane asylum.

Art. 103. A crime or misdemeanor is, also, not punishable, when it is proven that it has been committed in an attack of mental disturbance or complete unconsciousness (that is, caused by disease but not by intoxication).

Remark. Referring to the transient or temporary insanity (*mania transitoria, acutissima*,) if, during such condition, a murder or attempted murder or attempted suicide has been committed, the same precaution is to be taken as in ordinary cases of insanity, concerning the period of observation; but that period need not be of so long duration as in the cases cited above:—six weeks of observation is sufficient in such cases for the determination of complete recovery.

Arts. 104 & 105. The exemption from punishment for the commission of crimes and misdemeanors, refers also to such persons, as have lost their mental faculties and the use of their reason in consequence of age and infirmities, and also to somnambulists, who act under the influence of their psychical nervous malady, without corresponding consciousness; also born deaf-mutes or persons who have lost in their earliest youth the faculties of hearing and language, are not held responsible for crimes or misdemeanors, when it is plain that they have not been enabled, either by education or by intercourse with other persons, to acquire ideas concerning duties and laws.

Remark. Such patients may be delivered, instead of to the insane asylum, to parents, relatives, guardians, or, with their assent, to strangers, when these latter bind themselves to keep the patient under continued and close surveillance, and to have him medically treated during his sickness, and also to avoid everything which might be hurtful to the surroundings, either to other persons or to the patient himself.

When the parent of the patient, his relatives, guardian, or strangers, who are willing to take the patient under their protection, do not offer sufficient guarantees, and it cannot be expected that they will exactly and punctually fulfil all their duties, the insane will be committed to an insane asylum for treatment and care. Deaf-mutes, by birth or from their earliest childhood, are kept in prison under close surveillance, but separate from other inmates.

Though somnambulists cannot strictly be classed among the

insane, yet, since they are deprived of self-consciousness and control over their actions during their attacks, and in such condition may harm themselves and others, therefore such persons, when they have committed a murder or any other crime, are treated by the law as really insane persons.

Idiots are those who from their birth have been devoid of understanding.

"Insane," the law applies to persons whose derangement has originated from accidental causes.

Besides this the Criminal Code speaks of complete mental confusion and unconsciousness.

REPORT OF COMMISSION

TO EXAMINE INTO THE PRESENT SYSTEM FOR THE CARE
OF THE INSANE OF THE STATE, ETC.

To the Senate and House of Representatives :

GENTLEMEN: In May, 1882, I requested John F. Hartranft, Richard C. McMurtrie, Joseph A. Reed, M.D., S. Weir Mitchell, M.D., J. T. Rothrock, M.D., L. Clarke Davis, and George L. Harrison to examine into the present system for the care of the insane of the State, and inquire into the legislation of other States and countries, and report the result of their investigations with their conclusions and recommendations for the further protection and amelioration of the insane.

This commission was constituted of persons who possessed a high order of learning and experience on the question, and whose professional reputations demanded the most conscientious and practical consideration and action. It is safe to ask you to accept their conclusions, contained in the accompanying report and proposed Act of Assembly, with a large measure of confidence.

HENRY M. HOYT.

REPORT.

PHILADELPHIA, *January 2, 1883.*

Governor HENRY M. HOYT,

Harrisburg.

DEAR SIR: Your Excellency appointed a commission on May 23, 1882, to "consider the question of the care of the insane in this Commonwealth, the mode of their introduction into public and private asylums, the general scope of their treatment, the mode of their supervision and release, which are believed now to be inadequately guarded and provided for; to examine into the present system, and inquire into the legislation of other States and countries, and report the result of their investigations, conclusions, and recommendations for the further protection and amelioration of the insane."

This commission has the honor to report, in response to the above application, a scheme of legislation on the subject referred to them, which was reached after careful thought and extended investigation and research, in conformity with your expressed wishes. This result received the unanimous approval of the commission, and indicates the direction of the most moderate and conservative thought upon the subject.

The commission begs leave to accompany their proposed bill with an explanation of the facts and reasons which operated with them in the pursuit of their work, and to indicate the grounds upon which they have based their action. They venture, also, to make some suggestions, which may be convenient to your Excellency in determining upon your own course in the premises.

Topics of the act proposed by the commission:

COMMITTEE ON LUNACY.

Your commission is convinced, that in order to do full justice to the administration of an office having charge of the interests of so large a number of the wards of the State, whose condition appeals with peculiar emphasis to her sympathy and care: an office, also, which the public demands for protection against all possible risks of mistake or wrong-doing, in the detention of a citizen, for an indefinite period, in establishments of any sort for the insane, where all the rights of persons and property are jeopardized—that, for so grave a service over so large a territory, a special commission should, in some sort, be provided for, to act as a central board, with authority to appoint visitors in the several counties to represent the commission, and a secretary or agent fully and specially qualified to act for them, in carrying out the provisions which the law requires in the premises.

This course has been pursued practically in numerous instances; and, also, where a board of State charities is in existence. The commission, however, has concluded to propose a measure which will preserve the oversight of the Board of Public Charities, and, at the same time, impose upon a committee of that board, to be enlarged for the purpose, the special service required by this act. In fulfilment of their views, they have proposed that three additional members shall be given to the Board of Public Charities for this special service, one of whom shall be a physician of at least ten years' practice, and one a lawyer of the same term of practice. That the Board of Public Charities shall add two of its members as now appointed, thereby creating a committee on lunacy, which shall serve under this act, with the aid of a secretary with a proper salary, to be appointed for this particular duty and service.

COMMITMENTS.

The present law authorizes any two doctors of medicine, whose "respectability" is vouched for by a magistrate, to certify to the insanity of a citizen, and this action insures his commitment for an indefinite time to a hospital. They may have graduated at the date of this certificate, and may be chiropodists or dentists. Such a determination of the question of insanity may consign a citizen wrongly to any hospital for

the insane. As to almshouses, private houses, or asylums, there is no law to guard his liberty. The commission has given whatever protection seemed possible and practicable under any and all circumstances. Whatever appeared necessary to secure competency and impartiality of the signers of the commitment certificate, and due investigation of their professional repute by the magistrate has been required. The magisterial certificate as to the standing, etc., of the physicians would have been confined to that of a judge of a court of record, but that, for a considerable portion of the year, such service could not be had in the larger part of the Commonwealth. It has also further guarded the safety of the alleged lunatic, by requiring the prompt investigation and action of the medical superintendent of the institution to which such person may be sent.

CORRESPONDENCE.

The propriety of exercising a censorship over letters written by patients in any establishment for the care of the insane, is thought unjust and injurious, and postal facilities have been provided for, in their behalf, by the act of the commission, as is the case in Massachusetts and some other States. It is questionable whether a prohibition of the right of correspondence can be maintained legally. The onus of proof of its necessity would certainly rest upon the medical superintendent. Many cases of inmates of hospitals have been discharged by the courts, who obtained cognizance of them solely by accidental communications, through visitors, escapes, etc.

CRIMINAL INSANE.

The justice and humanity of providing for this class of insane were early felt by the judges of the criminal courts, who were, under the law of 1836, required to commit to close custody persons acquitted of crime on the ground of insanity, there being, at that time, no place open to them but the penitentiaries and county jails. They, therefore, with other humane and philanthropic citizens, memorialized the Legislature, in 1839, to establish a hospital for the insane, and for authority to be given the courts to commit to it all persons acquitted of

crimes on the ground of insanity. In 1845, the State hospital, at Harrisburg, was completed, and gave proper protection to the rights of the poor and criminal insane, and satisfied the judges who had the responsibility of disposing of them. But by more recent legislation, obtained in 1861, and thereafter for the State lunatic hospitals, without the petition, knowledge, or approval of the judiciary, the humane legislation of the act of 1845 was practically annulled, and has virtually obstructed the ends of justice and reason. The commission has recommended a substitute for this wrongful legislation, which will re-establish the former status of this class, as it existed from 1845 to 1861, during which period the courts and the community were satisfied with the propriety of the law.

DISCHARGES.

The authority and duty to "discharge" rests primarily, under this act, with the medical attendant of the institution, upon the recovery of the patient. If, however, the discharge is not granted, and on a hearing upon a writ of habeas corpus, the respondent has been found in error, he must pay the costs and other charges of the proceeding, unless the judge orders otherwise.

For the further relief of such persons, power is given to three members of the lunacy committee or a committee of visitors with one of this body, to discharge; which is a necessary provision, and one which is invariably made in all cases where a lunacy committee exists.

It has occurred, not only that sane persons have been consigned to institutions for the insane, but that such persons have been frequently detained there, and legitimate patients, also, after they have sufficiently recovered to justify their release from confinement. It has been thought, therefore, that the officers of hospitals for the insane should be held to strict accountability and be made legally liable for all improper or unjust detention of such cases.

It is, therefore, recommended that section seven, act of April 20, 1869, P. L. p. 80, be repealed, as it relieves officers of hospitals for the insane of all responsibility for any detention, if committed according to law. The commission advises the adoption of a section, in lieu thereof, making the medical

superintendent liable to a civil action if it be shown, by judicial sanction, that he has acted in bad faith, or negligently, towards the patient.

The commission recommend, also, that indigent patients restored, when discharged from the hospital, be suitably clothed and furnished with a small sum of money, sufficient to carry them home.

VISITORS.

The formal, stated, perfunctory visitations of officials to hospitals for the insane, is not all that even the present laws on the subject contemplate. The visits should be solely in the interest, and for the protection of the rights of the inmates of these institutions, and the officials should be expected to offer every facility to enable such visitors to fulfil their duty; and these visitors should not be deterred by any impression—generally unfounded—that a reason exists in any case for reserve in investigating the condition of a patient. There exists no such mystery in these matters as should prevent an intelligent and judicious person from investigating the condition and the needs, so far as his general well-being is concerned, of any patient in an institution. This fallacy is not suffered to exist in Great Britain. It has been long since it was recognized there, and also in some States of this country. The idea, if made practical, must hinder the usefulness of all visitations.

The commission has provided for the requisite inspection of all places where the insane are detained, and for the proper observation of the condition and needs of the inmates.

VISITS OF FAMILY PHYSICIAN.

While the commission felt strongly the importance of providing the insane patient with the best medical skill and advice for the treatment of bodily disease, which is possible, there is an obvious difficulty in requiring the physician of the hospital, although mainly a specialist, to consult with an outside practitioner. The provision for such intervention has therefore been so guarded, as to satisfy the most jealous alienist. At the same time, the physician named by the family or

near friend, will be allowed to visit and examine an insane patient, at any time, with the consent of a judge, and to prescribe for bodily ailments with the consent of the chief physician of the institution. Even this cautious and restricted privilege will be gladly welcomed by insane patients and their friends.

PRIVATE HOUSES.

There has been no legal government of these places for the reception of the insane, heretofore, in this Commonwealth, although several exist, and one, at least, is largely occupied. They are liable to grave abuses, but, under stringent statutory provisions, they are important and highly satisfactory to certain classes of patients. There exist in England certain private houses, which are most comfortable homes for these sick people, and where opportunities exist for employment and diversion and individual treatment, which are impossible in the larger hospitals. The commission have proposed the recognition of these institutions under such regulations as will secure the protection of the sane and the insane.

In conclusion, we beg to say that the commission was aware that other considerations might be given to the question referred to them, which would suggest further legislation. But they deem it inexpedient to enlarge their proposal at this time; being assured that an honest and faithful observance of the provisions of the proposed act will satisfy very largely public expectation, and greatly benefit the class in whose behalf legislative relief is asked for. It may not be inappropriate, however, to append to these explanations of the work of the commission, the following suggestions:

SUGGESTIONS.

Having now given to your Excellency the reasons for the legislation the commission has recommended, we will venture, in the further discharge of the duty imposed upon us, to make the following "suggestions" for the amelioration of the condition of the insane:

1st. The chronic or incurable insane should be more economically provided for. The capacity of the State hospitals, includ-

ing Dixmont and Philadelphia hospitals, may be stated as 3,742; if to this we add the private institutions, to wit: Friends' Asylum, Pennsylvania Hospital, and Burn Brae, it will make accommodations for an aggregate of 4,372, leaving a surplus, without adequate provisions, of 3,887 insane persons to be provided for in almshouses or elsewhere. While it is possible that a small portion of the chronic insane may be properly cared for in connection with the county poor-houses, the great majority require a supervision and oversight which cannot be extended to them in such places. The condition in which they are kept, as a general rule, in the poor-houses of the State, has frequently been brought to the notice of the Legislature; and, although there has been, of late years, a manifest improvement in their condition and treatment, in several of the county establishments, it is impossible, from the circumstances which characterize the whole arrangement, discipline, and government of such institutions, than these insane poor can be otherwise than grossly neglected and foully wronged; for at the best they are simply kept in places of detention, under the guardianship of a respectable overseer, who is wholly ignorant of their disease, and of the means necessary for its alleviation or its cure.

The truest economy in their behalf will be secured by making the well-managed hospitals, or buildings adjacent thereto, the sole receptacles of the insane in the Commonwealth, and by making appropriate legislative provisions for all additions to their present population. There is nothing truer than that the state or county must pay for the support of these defectives during life, unless suitable provision for cure and treatment induces timely restoration. It is, therefore, no more than common wisdom that is applied to the ordinary business of life, to take such measures as will provide the best opportunity of restoration that the age affords. If these dependent wards of the State number some thousands, their claim upon the State, in both a humane and economic aspect, is proportionately multiplied.

We do not regard it as proper economy, on the part of the State, to continue to erect large and costly hospitals for the reception of the chronic insane; for it has been repeatedly demonstrated that not more than eight per cent. of the inmates of these expen-

sive institutions have any probability of restoration or cure. These large hospitals, with their costly accommodations, may be regarded as necessary for curable or acute cases of insanity, but they are not necessary as places of refuge and protection for the chronic insane, provision for whose care should be made in a simpler and more home-like manner. We therefore suggest the following plan, which we believe will be beneficial to the treasury of the State, as well as to the stricken and helpless beings, whose sad woes appeal to every heart, not only for sympathy, but for sure and permanent relief; and we believe that this is the only practicable alternative measure for their relief from the misery and deterioration suffered under almshouse treatment:

Erect on the grounds of each of the State hospitals, plainly constructed detached buildings, near enough to main building for convenience. These homes can be built substantially, and in perfect adaptation to their uses, and to conform, also, if necessary, with the architectural character of the main building, for three hundred dollars per patient, including furniture, and every appliance and appurtenance demanded for their proper administration. They might consist of a single structure for each department, to accommodate two hundred patients, or, as in the case of the Willard Asylum for the Insane in the State of New York, of groups of buildings for each department, with accommodations for fifty patients. *No more than a proportionate number should be given to each hospital.* This is a reasonable and practicable plan for the relief of the helpless wards of the Commonwealth, who are thrust out of sight and into the county poor-houses, and who remain there year after year in hopeless wretchedness. By this plan the State might readily charge the counties a very moderate sum for the care of these patients.

2d. The acute or recent cases of insanity should receive prompt treatment on first attack. By the adoption of the plan suggested for making provision for the chronic or incurable insane, it will leave ample room in the large hospitals for all acute or recent cases of insanity, to be admitted with the special object of their recovery; and also, for an admixture, if desirable, of chosen chronic cases; and, for this purpose, no necessary expense should be spared to place the curable cases, which

are in large hospitals, on a basis equal, as regards appliances, etc., for medical care and treatment to that of the best general hospital in the country.

It seems important, that convalescent wards be provided for patients whose mental rehabilitation is largely established; where the apartments, surroundings, and associations will accord with the varied habits and tastes, morally, socially, and intellectually, of the patients whose health is so nearly restored, as to make distasteful the old surroundings of their invalid state. This measure is deemed a most essential complement to the high medical skill and oversight and the effectual nursing care which has brought the patients to this improved condition.

It is the neglect of the acute or recent cases of insanity which has so largely added to or accumulated the number of insane, and it is doubtful if insanity itself has developed to the extent its growing numbers would at first lead us to suppose. We have no evidence of any increase in the number of new cases in proportion to the population, and it seems clear that the increase in numbers is largely due to the accumulation of chronic or incurable insane, and also, to some extent, to the fact that of late years the conception of insanity has been so liberalized that there are now, indeed, regarded as insane, persons who, twenty years ago, would not have been so considered.

It is of vital importance that efforts be made to have all recent cases of insanity placed under proper hospital treatment, if such treatment be advisable, before they approach a chronic condition and threaten to become a burden upon the resources of the State during the remainder of their natural life.

3d. Nurses and attendants of hospitals should be trained. The great desideratum for hospitals for insane is a corps of trained nurses and attendants. The superintending physician is clearly accountable for the conduct of these important subordinates, as he has, by law, their appointment, exercises the entire control over them, and has the direction of their duties. The utmost care should be exercised in their selection, by inquiry and investigation into their antecedents, and only those who are known to be of good character, conscientious, and possessed of adequate ability, patience, and forbearance should be employed. It is difficult to obtain attendants possessing the

proper qualifications for the amount of compensation allowed them. The office is one of exacting and often distasteful service, and a superior class of persons often shrink from the position, because they are required to perform the most menial and repulsive work. This might be remedied by the adoption of the plan pursued in some States, of having the more refined and educated class of attendants, and employing menial servants to do the drudgery of the wards.

As it is only in the hospitals that nurses and attendants can be practically trained for their difficult duties, a training school for their instruction should be established in each of the State hospitals, where proper training, at the hands of the superintending physician or his assistants, can be secured.

4th. EMPLOYMENT.—If greater attention and effort were made to furnish the inmates of the hospitals with useful occupation and exercise, it would add largely to the restoration of the patients. It cannot be expected that patients, who are month after month, and year after year, confined in the wards of an insane hospital, with but little diversion of mind or opportunity of bodily improvement or invigoration, can possess many chances of recovery from a malady which demands the nearest possible approach to perfection in these resources, for relief from the peculiar infliction which they suffer.

The want of these alleviations is the potent cause of the discontent which prevails so largely in all asylums for the insane; which prompts the perpetual solicitation for release from painful incarceration. Most patients are not only able but desirous to do some active work, and often crave it. Of course there are exceptions, but the general rule should be to provide occupation, which is productive of good results.

The large farms connected with hospitals for the insane, afford ample facilities for the occupation of the larger proportion of the men, in gardening and other work upon the grounds. With others, the ennui of hospital life might be advantageously relieved by industrial work of a different nature. It would also be found entertaining and useful to have patients, who are in condition of health for such employment, instruct their fellow patients in some educational branches. Educational facilities of all grades, as far as practi-

cable, might be furnished in hospitals; many patients would gladly instruct others in the rudiments of education, the higher branches, music, etc., and this exercise might be a potent agent for their earlier restoration to sound reason, and, as no expense would attend this effort, the experiment might be made the more easily.

It is well known that cures have been effected in almost hopeless cases by giving *suitable and acceptable employment* to the insane, and it always promotes the comfort, and even happiness of the partially insane. Employment is urged solely upon the ground of its influence upon the patient, not from any motive of profit to be derived from it, and it is believed to be a most effective therapeutical measure, often more composing than the administration of medicinal sedatives. In France, work-shops for patients are just as much a part of their system of treatment as any other instrumentality or agency employed to promote their restoration.

Thus we should seek to give these helpless ones contented minds, and hasten their relief by drawing their thoughts away from their mental infirmity; and to relieve the hospital of its prison aspect by some occupation congenial to their peculiar habits and tastes, as modified by their malady.

5th. RESTRAINTS.—If there were more exercise and useful occupation, there would be less employment of mechanical, or even medicinal restraints advocated and practiced by some superintendents.

In English hospitals, restraints are considered injurious; they rely solely upon moral influence of suitable kind, occupation, and exercise, and have found by experience, that when patients have had such reasonable treatment, there was no need of mechanical restraint of any kind. The suggestion by the advocates of mechanical restraints, that where they are not used, medicinal sedatives are more largely employed, is a false one. On the contrary, the irritation caused by the former is not experienced, and thus the various drugs used to relieve it are not necessary. These statements are based upon unquestionable personal knowledge and observation.

In institutions in this country, where the abolition of restraint apparatus has taken place, the same results have followed. "To-day," says one of these superintendents, "we use

no straight-jacket, straps, etc. * * * The absence of restraint and the occupation of the patients has been most satisfactory; the patients have been quieter, more happy, and many have recovered, while working, who, otherwise, would not have done so, or would have recovered much more slowly. I have become convinced that a great deal of liberty can be allowed most patients, and that to their advantage and happiness."

If restraints are used at all, they should be restricted to patients of a suicidal or homicidal tendency, and be applied only by the personal direction of the superintending physician. But in all other cases their use should be prohibited. We think they could be dispensed with altogether.

We remain, dear sir,

Yours, respectfully,

(Signed,)

JOHN F. HARTRANFT,
RICHARD D. McMURTRIE,
JOSEPH A. REED, M.D.,
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GEORGE L. HARRISON,
Commissioners, etc.

AN ACT

RELATIVE TO THE SUPERVISION AND CONTROL OF ASYLUMS OR HOUSES IN WHICH LUNATICS ARE DETAINED.

Section 1. There shall be a central board which shall have the supervision over all houses or places in which any person of unsound mind is detained whenever the occupant of the house or person having charge of the lunatic receives any compensation for the custody control or attendance other than as an attendant or nurse and also of all houses or places in which more than one such person is detained with or without compensation paid for custody or attendance.

Sec. 2. The Board of Commissioners of Public Charities together with three other persons one of whom shall be a member of the bar of at least ten years standing and one a practicing physician of at least ten years standing shall constitute the central board. The three additional members shall be appointed by the Governor after the passage of this act for a term of five years or upon any vacancies occurring by death or resignation for the unexpired term of such appointment or on expiration of term of service and the Governor upon sufficient cause may in his discretion remove any member from the office.

Sec. 3. The board shall appoint a committee of five to act as the committee on lunacy. The three additional members appointed under this act shall be members of that committee and three members shall constitute a quorum and shall be authorized to exercise all the powers conferred by this act on said committee or on the central board and the committee shall choose a president and secretary to serve for the current year and annually thereafter. The secretary shall receive an annual salary of three thousand dollars with necessary incidental expenses to be accompanied with proper vouchers payable quarterly by the State Treasurer and he may be removed at the pleasure of the committee on lunacy.

Sec. 4. The committee on lunacy herein provided for shall examine for themselves or through their secretary and report annually to the Governor on or before the first day of December into the condition of the insane in this State and the management and conduct of the hospitals public and private almshouses and all other places in which the insane are kept for care and treatment and it shall be the duty of the officers and others respectively in charge thereof to give such committee and their secretary at all times free access to the insane and full information concerning them and their treatment therein.

Sec. 5. The said committee on lunacy are empowered and required to execute through themselves or their secretary all the provisions of this act which pertain to their office as set forth therein and shall direct their secretary accordingly and shall also make such other rules and regulations for their own government and that of their secretary as are not inconsistent with the provisions of this act.

Sec. 6. The report of the said committee on lunacy shall be published annually and separately and distinctly with that of the Board of Public Charities.

Sec. 7. The board shall have power from time to time with the consent of the Chief Justice of the Supreme Court and of the Attorney General to ordain rules and regulations on the following matters so far as the same are not inconsistent with any laws of this Commonwealth then in force and of any provisions of this act

(1) The licensing of all houses or places in which any person can be lawfully detained as a lunatic or of unsound mind upon compensation being paid to or received by the owner or occupant of such house or place directly or indirectly for the care of such lunatic and also of all houses or places in which more than one person of unsound mind is detained or resides provided that this clause shall not extend to any jail or prison

(2) Regulations to insure the proper treatment of persons so detained and to guard against improper or unnecessary detention of such persons.

(3) Regulations of the forms to be observed warranting the commitment transfer of custody and discharge of all lunatics other than those committed by order of a court of record and as to these with the consent of the presiding judge of the court under whose order the person is detained.

(4) The visitation of all houses or places licensed under this act and of all persons detained therein.

(5) The withdrawal of such licenses and the imposition of conditions under which they shall continue.

(6) Reports and information to be furnished by the keepers or managers of all licensed houses or places and by the boards of visitors.

(7) Regulations as to the number of persons that may be detained and the accommodations to be provided and food clothing and fuel to be furnished in any licensed house or building the manner of such detention and the restraints imposed the means of communication by those detained with relatives friends and other persons outside the houses and places of detention.

Sec. 8. There shall be appointed boards of visitors of all houses or places licensed under this act or in which any person of unsound mind is detained and for the care or custody of whom compensation of any kind is received or where more than one such person is detained. One such board shall be appointed in every county in which there is a licensed house or place of not less than three persons and in each county where there are more than one such house or place the number constituting the board of visitors of such county shall be increased in the discretion of the committee on lunacy.

Sec. 9. The members of the board of visitors shall be appointed by the committee on lunacy in each year and shall continue until their successors are appointed and the committee on lunacy may remove the visitors and fill vacancies in the office.

Sec. 10. Women may be appointed members of the boards of visitors and at least once a year these boards shall be filled up so that members who have failed to act shall be removed.

Sec. 11. It shall not be lawful for any person or persons or corporation to keep or maintain a house or place for the reception or custody of persons of unsound mind without having received a license under this act nor when such license has expired or been withdrawn or suspended and the keeper and occupant of any such house within which more than one person shall be detained as being a person of unsound mind for compensation received and the keeper and occupant of any

such house or place wherein more than one person is received and detained with or without compensation and while there is no license in force authorizing the keeping of such house or place shall be deemed guilty of a misdemeanor.

Sec. 12. Any person having charge or control of any house or place used for the detention care or custody for which a license is required under this act who shall violate or omit to observe any regulation of the committee on lunacy authorized by this act after a copy of the same has been left at the said house or place or delivered to the person named in the license shall be deemed guilty of a misdemeanor and all common law rights of action or indictments are also reserved.

Sec. 13. The committee on lunacy shall from time to time provide for an effectual visitation of all persons confined as insane in all places over which they are given jurisdiction by this act and an inspection of such houses or places of confinement and of the mode of treatment of the insane, and they are required to have such visitations and inspections made at least once a month by a member of the committee, their secretary, or by a visitor in his respective county; once in six months by a committee of at least three persons one of whom shall be a member of the committee on lunacy and annually by a majority of said committee.

Sec. 14. And the board shall make rules to insure to the patients the admission of all proper visitors, being members of their family or personal friends agents or attorneys and compel obedience to such regulations.

Sec. 15. The detention of any person as insane in any house or place made subject to the provisions of this act without compliance with the requisitions of this act shall be a misdemeanor on the part of any person concerned in such detention who has omitted or permitted the omission of any of the requirements and the party aggrieved shall also be entitled to his action for damages.

Sec. 16. No verdict or judgment shall be entered in any action nor shall any judgment be entered on any indictment for such detention as against any person or persons who are subject to the regulations and provisions of this act who shall have complied with the requirements of this act unless the judge after trial and verdict shall certify that there was proof

to his satisfaction that the party charged acted with gross negligence or corruptly or that he acted without reasonable or probable cause or was actuated by motives other than the good of the person restrained.

Sec. 17. In all buildings or establishments where an insane person is detained which are subject to the provisions of this act there shall be kept the following books which shall be at all times open to the inspection of any member of the committee on lunacy or the board of visitors of the proper county

An admission book.

A discharge book.

A case book in which there shall be periodically entered all the facts bearing on each patient and his case.

A medical journal in which there shall be at least once a week a statement written of all matters which are of special importance bearing on the treatment and condition of the patients.

Sec. 18. No person shall be received as a patient or for detention into any house or place where more than one insane person is detained or into any house or place where one or more insane persons are detained for compensation without a certificate signed by at least two physicians who have been actually in the practice of medicine for at least five years both of whom shall certify that they have examined separately the person alleged to be insane and after such examination had do verily believe that the person is insane and that the disease is of a character which in their opinion requires that the person should be placed in a hospital or other establishment where the insane are detained for care and treatment and that they are not related by blood or marriage to the person alleged to be insane nor in any way connected as a medical attendant or otherwise with the hospital or other establishment in which it is proposed to place such person.

Sec. 19. The certificate above provided for shall have been made within one week of the time of the admission of the person alleged to be insane and shall be duly sworn to or affirmed before a judge or magistrate of the county where such person has been examined who shall certify to the genuineness of the signatures and to the standing and good repute of the signers.

Sec. 20. No person shall be received into any house for deten-

tion unless at the time of such reception the person or persons at whose instance the person is detained shall by a writing signed state that the person has been removed and is to be detained at his or her request under the belief that such detention is necessary and for the benefit of the insane person and this shall be verified by oath or affirmation.

Sec. 21. There shall also be delivered to the person or persons having supervision or charge of the house a written statement of the following facts relative to the person to be detained signed by the person or persons at whose instance the insane person has been removed and detained or if the facts be not known it shall be so stated and the statements verified by oath or affirmation

- (1) The name.
- (2) Age.
- (3) Residence for the past year or for so much thereof as is known.
- (4) Occupation trade or employment.
- (5) Parents if living.
- (6) Husband or wife.
- (7) Children.
- (8) Brothers and sisters and the residences of each of these persons.
- (9) If not more than one of these classes is known the names and residences of such of the next degree of relatives as are known.
- (10) A statement of the time at which the insanity has been supposed to exist, and the circumstances that induce the belief that insanity exists.
- (11) Name and address of all medical attendants of the patient during the past two years.

Sec. 22. Should the person in charge of the house have reason to believe that any of these statements have been omitted through ignorance and that the answers will be immediately furnished and no reason existing to doubt the good faith of the parties after inquiring of the person intended to be detained it shall be lawful to detain the person alleged to be insane for such further period as shall be necessary to obtain the said statements complete but not exceeding seven days.

Sec. 23. Within twenty-four hours after any person is re-

ceived into any house for detention as an insane person the person in charge there shall enter or have entered in a book kept for that purpose all the facts stated in the certificate or documents required to be exhibited at the time of receiving the patient and shall file the originals and preserve them. The regular medical attendant of the house shall within twenty-four hours after the reception of any patient examine such patient and reduce to writing the results of such examination and enter the same upon a book to be kept for that purpose together with the opinion formed from such examination and from the documents received with the patient.

Sec. 24. In case the said medical attendant is of the opinion that a detention is not necessary for the benefit of the patient he shall notify the person or persons at whose instance the patient is detained and unless such person shall within twenty-four hours exhibit satisfactory proof of such necessity the patient shall be discharged from the house and conveyed to the nearest place where a public conveyance can be obtained by him.

Sec. 25. At the time of such examination the medical attendant shall himself cause the patient distinctly to understand if he or she is capable of doing so that if he or she desires to see or otherwise communicate with any person or persons means will be provided for such interview or communication and said attendant shall personally see that proper means are taken to communicate this fact to the person or persons indicated by the patient and any person or persons whom the patient may then desire to see shall be permitted to have a full and unrestrained interview with the patient.

Sec. 26. Copies of the documents furnished at the time of the reception of the patient (and of the examination of the patient by the medical attendant of the house) shall be forwarded by mail to the address of the secretary of the committee on lunacy and to the secretary of the board of visitors of the county within forty-eight hours from the time of the reception of the patient which shall by them be entered in a book which they shall keep for this purpose and at least once in three months there shall be a report made by the medical attendant of the house on the condition of such patient together with such other matters relative to the case as the said

committee or board may require and at any time such report shall be made upon the request of the secretary of the committee on lunacy.

Sec. 27. During the detention of any person as insane any medical practitioner designated by him or by any member of his family or "near friend" with the sanction of a judge of a court of record of the county in which such insane person resided at the time of his removal and detention shall be permitted at all reasonable hours to visit and examine the patient and such medical attendant shall unless objected to by the patient, be permitted by request of his or her family or "near friend" and with the consent of the physician in chief of the establishment to attend the patient for all maladies other than insanity in the same manner as if the patient were in his own home.

Sec. 28. All persons detained as insane shall at all times be furnished with materials for communicating under seal with any proper person without the building and such communications shall be stamped and mailed daily. Should the patient desire it all rational communications shall be written at his dictation and duly mailed to any relative or friend named by the patient.

Sec. 29. The provisions of this act in respect of the admission or discharge of patients shall not extend to insane criminals in custody. Such persons shall not be received except when delivered by a sheriff of the county or his deputy together with an order of the court of the county in which he was arrested or convicted having jurisdiction of the offense under the seal of the court and signed by a law judge. Nor shall such criminals be discharged from a hospital or other place of detention saving on a like order and to the sheriff or his deputy producing such order and while detained as an insane person such criminal shall be so kept as to insure his detention until duly discharged. Whenever any person detained in any jail or prison is insane or in such condition as to require treatment in a hospital for the insane it shall be the duty of any law judge of the court under whose order the person is detained upon application to direct an inquiry into the circumstances either by a commission or otherwise as he shall deem proper with notice to the committee on lunacy and if the judge shall

be satisfied that the person confined requires treatment in a hospital he shall thereupon direct the removal of the said person from the jail or prison to a State hospital which order shall be executed by the sheriff of the county or his deputy and the actual expenses of such removal and the expenses of maintaining the person in the hospital shall be paid by the county liable for the maintenance of the said person in the jail or prison from which he is removed.

Sec. 30. The trustees managers and physicians of any hospital in which a criminal is confined by order of any court or in which a lunatic has been committed after an acquittal of crime shall not discharge release or remove the prisoner or lunatic without the order of a court of competent jurisdiction and in case such lunatic whether a convict or acquitted is not set at large but is to be removed to any place of custody other than a hospital the order for removal shall not be made without notice to the committee of lunacy and time given them to investigate the case and be heard on the application.

Sec. 31. All persons that have been detained as insane (other than criminal insane duly convicted and sentenced by a court) shall as soon as they are restored to reason and are competent to act for themselves in the opinion of the medical attendant of the house be forthwith discharged and any person so detained shall at all times be entitled to a writ of habeas corpus for the determination of this question and on the hearing the respondent in that writ shall be required to pay the costs and charges of the proceeding unless the judge shall certify that there was sufficient ground in his opinion to warrant the detention and put the petitioners to his writ. In case the discharged patient be in indigent circumstances such person shall be furnished with necessary raiment and with funds sufficient for sustenance and travel to his home to be charged to the county from which such patient was committed.

Sec. 32. The committee on lunacy shall be notified of all discharges within twenty-four hours thereafter and these shall be entered by the secretary of the committee.

Sec. 33. Any three members of the committee on lunacy or the board of visitors of the proper county with one or more members of the committee on lunacy may at any time order and compel the discharge of any person detained as insane

(other than a person committed after trial and conviction for crime or by order of court). But such order shall not be made unless notice be given to the person having charge of the building in which the patient is detained and to the person or persons at whose instance the patient is detained and reasonable opportunity given them to justify a further detention and no member of a board shall sign an order of discharge unless he has personally attended and examined the case of the patient.

Sec. 34. Persons voluntarily placing themselves in any of the houses provided for in this act may be detained for the time they shall specify by an agreement signed by them at the time of their admission but not exceeding seven days and they may from time to time renew the authority to detain them for a time not exceeding seven days from such removal but no agreement shall be deemed to authorize a detention unless signed in the presence of some adult person attending as a friend of the person detained in the presence of and also by the person in charge of the house or the medical attendant.

Sec. 35. So much of the act entitled "An act to provide for the admission of certain classes of the insane into hospitals for the insane in this Commonwealth and their discharge therefrom" approved the twentieth day of April Anno Domini one thousand eight hundred and sixty-nine number fifty-four of the pamphlet laws of that year as provides "that insane persons may be placed in a hospital for the insane by their legal guardians or by their relatives or friends in case they have no guardians but never without the certificate of two or more reputable physicians after a personal examination made within one week of the date thereof and this certificate to be duly acknowledged and sworn to or affirmed before some magistrate or judicial officer who shall certify to the genuineness of the signatures and to the respectability of the signers" is amended and the persons thereby authorized to place an insane person in a hospital are required to observe the forms and conditions required by this act in exercising the powers conferred by the said act of the twentieth day of April Anno Domini one thousand eight hundred and sixty-nine when the insane person is placed in any house, hospital or place which is subject to the provisions of this act.

Sec. 36. So much of said act as provides by section second as enacts "that it shall be unlawful and be deemed a misdemeanor in law punishable by a fine of not exceeding one hundred dollars for any superintendent officer physician or other employe of any insane asylum to intercept delay or interfere with in any manner whatsoever the transmission of any letter or other written communication addressed by an inmate of any insane asylum to his or her counsel residing in the county in which the home of the patient is or in the city or county in which the asylum is located" is hereby amended so that the same shall extend to the superintendents officers physician servants or other employes of all hospitals houses or places which are subject to the provisions of this act.

Sec. 37. So much of the said act as provides by section ten "If the superintendent or officers of any hospital for the insane shall receive any person into the hospital after full compliance with the provisions of this act no responsibility shall be incurred by them for any detention in the hospital" as applies to the superintendent or officers of any hospital house or place made subject to the provisions of this act is repealed and in place of the provisions of that act for the protection of such superintendents or officers the provisions of this act for that purpose are substituted.

Sec. 38. Whenever any person shall be found by inquisition to be insane, the committee of the person or of the estate, and also the clerk of the court into which the inquisition has been returned, shall thereupon forthwith send to the committee on lunacy, at their principal office, a statement in writing, signed by the committee, of the lunatic, of the name, age, sex, and residence of the lunatic, and the residence of the committee, and upon any change in the residence or place of detention of the lunatic, shall forthwith notify the committee of lunacy of such change. The committee on lunacy, or any one or more of the members of the committee, shall have power to visit and examine the said lunatic and authorize such visiting and examination by their secretary, or any board of visitors, or one or more members thereof, and by a physician, and the said committee are authorized to apply to any court having jurisdiction over the committee, or to a judge of a Court of Common Pleas of the county in which the lunatic is a resi-

dent or detained, to make such orders for the maintenance, custody or the care of the said lunatic, and for the care and disposition of the property of the lunatic as the case may require. From any order, final or otherwise, thus made, an appeal may be taken to the Supreme Court, but such appeal shall not be a supersedeas unless so ordered by the court making the order, or by a judge of the Supreme Court on application and a hearing.

Sec. 39. This act shall for all purposes except the appointment and organization of the central board, go into operation thirty days after a proclamation shall have been issued by the Governor announcing the organization of the committee on lunacy.

NOTE.—The provisions of section 38 were suggested by S. Preston Jones, M.D., of the Penna. Hospital for the Insane.

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